Monday
30th August, 1948

THE
CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE) DEBATES
(PART I—QUESTIONS AND ANSWERS)
Official Report

VOLUME VI. 1948

(9th August to 31st August, 1948)

THIRD SESSION

of the

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)

1948

CONTENTS

VOLUME VI—9th AUGUST TO 31st AUGUST, 1948

	PAGES.
MONDAY, 9TH AUGUST, 1948—	
Declaration by Members	1
Starred Questions and Answers	1—35
Statements laid on the Table	35—67
TUESDAY, 10TH AUGUST, 1948—	
Declaration by Members	69
Starred Questions and Answers	69—108
WEDNESDAY, 11TH AUGUST, 1948—	
Starred Questions and Answers	109—73
THURSDAY, 12TH AUGUST, 1948—	
Starred Questions and Answers	175—202
FRIDAY, 13TH AUGUST, 1948—	
Starred Questions and Answers	203—57
MONDAY, 16TH AUGUST, 1948—	
Starred Questions and Answers	259—97
Unstarred Questions and Answers	297—98
TUESDAY, 17TH AUGUST, 1948—	
Declaration by Members	299
Starred Questions and Answers	299—333
Short Notice Question and Answer	333—34
WEDNESDAY, 18TH AUGUST, 1948—	
Starred Questions and Answers	335—67
FRIDAY, 20TH AUGUST, 1948—	
Starred Questions and Answers	369—406
Transferred Starred Questions and Answers	406—24
Transferred Unstarred Questions and Answers	425
MONDAY, 23RD AUGUST, 1948—	
Declaration by Members	427
Starred Questions and Answers	427—74
TUESDAY, 24TH AUGUST, 1948—	
Declaration by Members	475
Starred Questions and Answers	475—515
WEDNESDAY, 25TH AUGUST, 1948—	
Starred Questions and Answers	517—49
THURSDAY, 26TH AUGUST, 1948—	
Starred Questions and Answers	551—90
SATURDAY, 28TH AUGUST, 1948—	
Starred Questions and Answers	591—619
MONDAY, 30TH AUGUST, 1948—	
Starred Questions and Answers	621—59
Unstarred Question and Answer	659—60
TUESDAY, 31ST AUGUST, 1948—	
Starred Questions and Answers	661—706
Unstarred Question and Answer	706
Short Notice Questions and Answers	707—09

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE) DEBATES

PART I —QUESTIONS AND ANSWERS

Monday, 30th August, 1948

The Assembly met in the Assembly Chamber of the Council House at a Quarter to Eleven of the Clock, Mr. Speaker (The Honourable Mr. G. V. Mavalankar) in the Chair.

STARRED QUESTIONS AND ANSWERS

(a) ORAL ANSWERS

Shri H. V. Kamath: Before we proceed to business may I make a request to you, Sir? From the list of questions for today I find that one of the questions which I put down for last Monday appears in today's list as the last but one item. When I gave notice of it and put it for the 23rd August I did so after consulting the day-to-day statement of questions so that I might get a high priority for it on last Monday's list. And it did secure priority—it got the twelfth place on last Monday's list. But for reasons of which I am not aware, the Prime Minister took it up and had it transferred to himself. Today it appears at the bottom of the list, because in the meantime so many questions had been sent into the office. I therefore request you to consider this point because I have not broken the rules. The rules are that if the question is addressed to a wrong Minister or is put down for a wrong date then I have no right to request that the priority should be changed. As it is, the question is almost the last in the list. Considering the importance of the question of the salary and emoluments of the Governor-General I crave your indulgence to let this question and another question of mine—No. 587 which is fairly high up in the list—to change places. I do not want to encroach upon other honourable members' questions and their right of priority. But I would request you to permit my questions No. 587 and No. 612 to change places.

Mr. Speaker: I see some force in the request on the assumption that the original question was addressed to the right Minister and on the right date.

Shri H. V. Kamath: I had addressed it to the Finance Minister.

The Honourable Pandit Jawaharlal Nehru: Sir, I am in your hands. I am prepared to reply to it at any time.

Mr. Speaker: The point is that, according to the precedents of this House, members are not permitted to put any question, out of the order in which they are put on the Order Paper. The limitation of five questions does not mean that members can choose any five they like and then ask questions out of the order in which they are placed on the Order Paper. That is the general rule. But what I see in this case—an exceptional circumstance—is that the question was addressed to the right Minister and it did come up for reply last time. I know that. If it was transferred to another Honourable Minister for the convenience of the Ministers among themselves, it is not the fault of the member that his question comes last. It will be only on that consideration that I shall be prepared to allow him to put the question. But I think, I cannot give him the particular option of exchanging one question of his choice with another.

Shri H. V. Kamath: With another of my own questions.

Mr. Speaker: That is no doubt true. But his first question is No. 582.

Shri H. V. Kamath: Another of mine is 587.

Mr. Speaker: I think he will very probably get priority according to the order. Any how I will put it second† in the order as he wants.

Shri H. V. Kamath: Thank you, Sir.

Mr. Speaker: With reference to that question, I would invite the attention of the honourable member to the provisions of the Government of India Act—to Sections 33 and 34. Of course there is no question of a discussion, but he might perhaps put in supplementary questions which might be of the nature of a discussion. I do not propose to allow any questions in the nature of discussion.

MANUFACTURE AND IMPORT OF PRINTING AND FOUNTAIN PEN INK

‡576. ***Mr. R. K. Sidhva:** (a) Will the Honourable Minister of Commerce be pleased to state the quantity and value of fountain pen ink imported into India from foreign countries during the years 1946 and 1947?

(b) Is such ink manufactured in India? If so, of what value?

(c) Are there sufficient technicians with practical workshop knowledge in India who could manufacture best quality fountain pen ink which could compete successfully with foreign ink?

(d) What is the quantity and value of printing ink imported from foreign countries and that manufactured in India?

The Honourable Shri K. C. Neogy: (a) Statistics relating to the imports of Fountain Pen Ink are not available as the item is not separately recorded in the Sea-Borne Trade Returns of India.

(b) Yes. Figures in respect of the value of Fountain Pen Ink manufactured in India are however not available.

(c) There are technicians in India who can manufacture and are actually manufacturing good quality fountain pen ink.

(d) I lay on the table a statement showing figures relating to the value of imports by sea into India from abroad of printers' and lithographers' ink during the calendar years 1946 and 1947. Corresponding figures of quantities imported into India are, however, not available as also figures relating to indigenous production.

Statement

showing the value of "Printers and Lithographers ink" imported by Sea from abroad into India during each of the Calendar Years 1946 and 1947

Year and months	Value
1946—	
During the 12 months	17,81,032
1947—	
In the seven months from January to July, 1947 ...	14,23,021
August, 1947	2,63,806
September, 1947	2,71,927
October, 1947	2,87,718
November, 1947	3,02,952
December 1947	4,30,957

NOTE.—Figures for the year 1946 and the seven months January to July 1947 relate to British India before partition. Figures from August 1947 onwards relate to Indian Dominion only except that August figures include the trade of the port of Chittagong for the period 1st to 14th.

†Printed serially in the day's Debate.—*Ed. of D.*

‡Answer to this question laid on the table, the questioner being absent.

PURCHASE OF JAPANESE TEXTILE MACHINERY

†577. *Mr. R. K. Sidhva: (a) Will the Honourable Minister of Commerce be pleased to state whether it is a fact that firms in India are advertising that they require complete spinning machinery, automatic looms and complete woollen mills of Japanese make and that they want immediate delivery thereof?

(b) Is it a fact that Japan has sold a lot of Japanese textile machinery to India for U.S. dollars?

(c) If so, what is the total amount of sale and to whom was the machinery sold?

The Honourable Shri K. C. Neogy: (a) Government are not aware of any such advertisements, though they have seen some advertising the sale of Japanese Textile Machinery.

(b) Japan has already sold some textile machinery to India and has others on order. The cost of the machinery, it has been agreed, would first be adjusted against our credit with Japan under the sale of 170,000 bales of raw cotton made in the year 1947. The balance, if any, would be settled in sterling, pursuant to the sterling area's financial agreement with Japan, negotiated earlier this year, to which India is a party. This agreement however, provides that Japan will have the right, to convert any excess holdings of sterling she may acquire as a result of her trade with the sterling area into U.S. Dollars, if there is no reasonable proepect of her spending such excess sterling, on supplies available in the sterling area. It is only in this limited sense, that purchases from Japan can be said to be U.S. Dollars.

(c) Orders on Japanese manufacturers to the extent specified below have been placed during the years 1947-48 and 1948-49.

Looms	5,109 Nos.
Spindles	1,61,792 Nos.
Preparatory and finishing machinery	26 Sets.

The value of these machines is not readily available, as these vary according to specifications. Information as to whom these have been sold, is also not readily available.

578. [WITHDRAWN]

ALLOTMENT OF HOUSES TO REFUGEES IN DELHI

579. *Giani Gurmukh Singh Musafir: Will the Honourable Minister of Relief and Rehabilitation be pleased to state:

(a) whether it is a fact that the Custodian of Evacuees Property, Delhi compiled a list of persons who were to be allotted houses in Delhi;

(b) whether it is a fact that there were three categories of such persons, prioritywise;

(c) whether they were compiled on the advice of the Central Advisory Committee;

(d) the number of persons, categorywise to whom houses have been given; and

(e) the number of persons, in these categories, who will be given houses by December, 1948, categorywise?

The Honourable Shri Mohan Lal Saksena: (a) Yes.

(b) No. There were six categories.

(c) They were compiled on the advice of the Central Advisory Committee in the case of C. and D. Class houses and of the Sector Advisory Committees in the case of A. and B. Class houses.

†Answer to this question laid on the table, the questioner being absent.

(d)	(i)	Doctors, Nurses etc.	25
	(ii)	Technicians, Drivers, Fitters, etc.	3
	(iii)	Banks and Insurance.	6
	(iv)	Government Servants.	51
	(v)	Essential Services.	25
	(vi)	Lawyers, Teachers, etc.	68
	(vii)	Widows	8

(e) It is not possible to predict.

FREE POSTAL SERVICE AND TRAVEL IN THEIR CONSTITUENCIES TO MEMBERS OF CONSTITUENT ASSEMBLY

†580. *Mr. R. K. Sidhva: (a) Will the Honourable the Prime Minister be pleased to state whether it is a fact that members of the British Parliament are given facilities of sending letters without postage stamps and travelling without charge in their constituencies?

(b) Is it the intention of Government to give similar facilities to the members of the Constituent Assembly?

The Honourable Pandit Jawaharlal Nehru: (a) There is no general free post for members of British Parliament, but letters written by them to Government Departments are franked free of cost. Members of British Parliament are not entitled to travel without charge in their constituencies.

(b) The question whether letters written by members of the Constituent Assembly of India to Government Departments should be franked free of cost will be examined if there is any general desire among members of the Assembly that this should be done.

SUIT AGAINST REFUGEES FOR RECOVERY OF LOANS TAKEN AGAINST PROPERTY IN PAKISTAN

581. *Giani Gurmukh Singh Musafir: (a) Will the Honourable Minister of Relief and Rehabilitation be pleased to state whether the attention of Government has been drawn to the fact that most of the refugee businessmen and industrialists from West Pakistan, who had taken loans from banks and individuals against their stocks and property while in Pakistan, are now being sued or threatened to be sued in civil courts by their creditors?

(b) If the reply to part (a) above be in the affirmative, whether Government propose to take any steps to meet this situation?

(c) Is it a fact that Lala Achint Ram, M.C.A., has already made a suggestion to the Honourable Minister of Relief and Rehabilitation for this purpose?

(d) If so, what action have Government taken thereon?

The Honourable Shri Mohan Lal Saksena: (a) Yes.

(b) The matter is under the active consideration of the Government.

(c) Yes.

(d) It is under consideration.

PROPOSALS ACCEPTED BY UNECAFE FOR BUILDING UP ASIA AS A STRONG ECONOMIC ENTITY.

582. *Shri H. V. Kamath: Will the Honourable the Prime Minister be pleased to state:

(a) the concrete Proposals made and accepted at the last Ootacamund meeting of the UNECAFE with a view to building up Asia as a strong and prosperous economic entity; and

(b) the measures since adopted by India to implement the same?

†Answer to this question laid on the table, the questioner being absent.

The Honourable Pandit Jawaharlal Nehru: (a) The attention of the honourable member is invited to the relevant resolutions of the Commission, which will be found in its official Report of the Session at pages 35—53.

A copy of this Report has been placed in the Library.

(b) Action by Member Governments is required in respect of resolutions on: (i) Industrial Development (pp. 37-38), (ii) Contribution by the Japanese economy to reconstruction of the ECAFE region (pp. 39-40), (iii) Inter-regional trade (pp. 44-45), and (iv) Appeal to producing countries, etc., to bring down prices of essential commodities (p. 50).

As regards (i), the Government of India have supplied all necessary information on India's short-term and long-term plans to the ECAFE Secretariat.

As regards (ii), Government sent a Trade Delegation to Japan and received another Trade Delegation sponsored by the SCAP to explore possibilities of Indo-Japanese Trade. Further, recently, Government have sent a Delegation to consider, along with other sterling countries, the question of expansion of trade between Japan and the sterling area including India.

As regards (iii), the matter is receiving Government's attention, but in view of the special problems arising in this connection, *e.g.*, the exchange situation in China, the political instability of the countries concerned, and the fact that the region produces very few articles (except food grains) which India needs at present, no action by us is called for.

As regards (iv), Government have been considering this problem independently of ECAFE's recommendations.

Shri H. V. Kamath: Has any permanent organisation or Council been set up to co-ordinate the various schemes and plans for the development of the ECAFE region?

The Honourable Pandit Jawaharlal Nehru: The ECAFE has got a central Office which is situated at present at Shanghai I believe. It has been there for sometime. There was a proposal to shift it to some other place and I believe the Indian Delegation offered to have it in India. But ultimately the Committee there decided that they should retain the Office at Shanghai for the present because it is a temporary Office and a final decision will be made later.

Shri H. V. Kamath: What part does India play in the deliberations of this Council set up at Shanghai?

The Honourable Pandit Jawaharlal Nehru: India is represented there and the Secretary of the Council is an Indian Dr. Lokanathan.

Shri H. V. Kamath: Is there any link or close co-operation between this organisation or Council, whatever it may be, and the Asian Relations Organisation which was set up in India soon after the conclusion of the Asian Relations Conference in April 1947?

The Honourable Pandit Jawaharlal Nehru: No, Sir, there is no official link. The ECAFE is a United Nations Organisation. This other organisation was entirely separate. But at this very Conference held at Ootacamund the Secretary of the Asian Relations Organisation was sent as one of our Advisers.

Shri H. V. Kamath: Is it a fact that Dr. Grady, till lately Ambassador of the United States of America to India did state once that there could be a Nehru Plan for Asia; if so, may I ask whether Government discussed this further with the Ambassador or with the Government of the U.S.A.?

The Honourable Pandit Jawaharlal Nehru: I am glad the honourable member has mentioned the matter which is really of no significance but which has created some misapprehension because Dr. Grady in the course of his speech said something to the effect that he hoped that there might be some kind of plan for Asia, and he called it Nehru Plan. As a matter of fact there is nothing

more about it and there is nothing to discuss about it. It was just an idea thrown out in the air, that is that there should be some co-operation among the countries of Asia for supporting each other in the economic field.

Then again, some people imagine that this is a kind of adaptation of the Marshall Plan applied to India. India has had nothing to do with the Marshall Plan.

There is no Plan—Nehru or other—of the type mentioned or just casually suggested. In fact, Dr. Grady himself explained this matter and he said that it was just an idea thrown out. There was no discussion, there was no thought, private or formal, on the subject.

Shri H. V. Kamath: Is it a fact that at this ECAFE Conference in Ootacamund, or soon after that, M. Kirill Vasilevitch Novikov, the Ambassador of U.S.S.R. to India, stated that Russia was willing to help Asian countries including India without any political, economic or military strings attached to such aid but in spite of that Asian countries were today content to wait on America's door step?

The Honourable Pandit Jawaharlal Nehru: It is hardly a question as to what Mr. Novikov said in the course of a speech. I have no recollection of what he said—in fact, I was not there. I suppose if the honourable member read from the report of what he said, that would give more precisely what he said.

CANAL WATER DISPUTE WITH WEST PUNJAB

583. *Seth Govind Das: Will the Honourable Minister of Works, Mines and Power be pleased to state:

(a) whether it is a fact that two Ministers and eight officials of the Government of India went to Lahore to settle the dispute regarding the management of the canal waters common to the two Punjabs and Bahawalpur; and

(b) whether it is a fact that the meeting was adjourned on the ground that full information regarding the matter under discussion was not ready with either of the parties?

The Honourable Shri N. V. Gadgil: (a) Two Ministers and four officials of the Government of India and one Minister and three officials of the Government of the East Punjab went to Lahore on the 21st July 1948 to attend an inter-dominion conference with the Pakistan Government on matters relating to the canal water dispute.

(b) The meeting was adjourned after about four hours' discussion to enable both sets of representatives to consult their Governments on the points raised.

Seth Govind Das: Is it not a fact that that conference was adjourned because it was said in that conference that the representatives who had gone there had not the full knowledge of the facts?

The Honourable Shri N. V. Gadgil: That is not true, Sir.

Seth Govind Das: Is it not a fact that the matter was brought before the Government of India that the representatives who were sent on behalf of the Government of India were not in the know of the full facts?

The Honourable Shri N. V. Gadgil: That also is not true.

TRAINED LABOUR WELFARE OFFICERS

584. *Seth Govind Das: (a) Will the Honourable Minister of Labour be pleased to state how many candidates have so far been trained as Labour Welfare Officers?

(b) How many of these trained officers are provided with jobs and how many are un-employed?

(c) In view of the fact that the number of trained Labour Welfare Officers are very limited, do Government propose to consider the advisability of absorbing all the trained personnel?

The Honourable Shri Jagjivan Ram: (a) So far 43 officers have been trained as Labour Welfare Officers in United Kingdom and 98 in Labour Welfare work at the Social Welfare Course of the Calcutta University.

(b) As officers of the Central, Provincial or State Governments only are sent for training either in United Kingdom or Calcutta, there is no reason to believe that any of these officers is unemployed, but I am making enquiries.

(c) Does not arise unless, as a result of the enquiries referred to in the reply to part (b), it is found that there is unemployment.

Shri V. C. Kesava Rao: May I know how much money was spent on these officers?

The Honourable Shri Jagjivan Ram: I will require notice of that.

Prof. N. G. Ranga: Are we still sending some of these people to England to be trained, or have we got sufficient Colleges and training equipment here to train them in India itself?

The Honourable Shri Jagjivan Ram: We have not sufficient equipment in this country to train the required number of Welfare Officers and some of our officers are already in the U.K. getting training.

Seth Govind Das: Are Government making any efforts to start training centres and have necessary equipment in India so that we may not have to send these outside India?

The Honourable Shri Jagjivan Ram: I personally took up this question with some of the Universities and I am glad to inform the House that two of the Universities have started training in social welfare. We have under our consideration the starting of a Central Training Centre by Government also.

Seth Govind Das: Did the Government write to all the Universities in this respect and receive information from only two Universities?

The Honourable Shri Jagjivan Ram: We took up this question with almost all the Universities, but all the Universities have not got the necessary facilities to start welfare training.

Seth Govind Das: Which are those two Universities which are ready to consider this question?

The Honourable Shri Jagjivan Ram: Lucknow and Patna. Calcutta has already got a training scheme and in Bombay we have got the Tata School of Social Sciences.

Shrimati Dakshayani Velayudhan: May I know the number of institutions which impart training in welfare work—Government or otherwise?

The Honourable Shri Jagjivan Ram: Most of these are officers of the Government either in the Centre, or in the Provinces or in the States.

Shrimati Dakshayani Velayudhan: Institutes I mean?

The Honourable Shri Jagjivan Ram: I have just given the answer. There is the Tata School of Social Sciences and there is the Calcutta University. Two other Universities are also going to start these training centres soon.

Pandit Lakshmi Kanta Maitra: Do Government propose to give financial assistance to the Universities that want to take up these social welfare courses?

The Honourable Shri Jagjivan Ram: We are already giving financial assistance to the Calcutta University, and when other Universities will approach us we will certainly consider that.

Seth Govind Das: Are Government going to give any financial help to Banaras and Aligarh Universities because they are already getting sufficient

grant from the Government of India to have these facilities in those two Universities?

The Honourable Shri Jagjivan Ram: Well, I will bring this matter to their notice.

Prof. Shibban Lal Saksena: Have Government made any estimate of the total number of welfare officers they require and by what time is it hoped to get them trained?

The Honourable Shri Jagjivan Ram: Our requirements of welfare officers will be rather large in view of the fact that we have made it compulsory to appoint welfare officers under the Factories Bill which we have passed recently, and therefore we are already examining the possibility of starting a training centre also.

Shrimati Dakshayani Velayudhan: Have Government any plan to send candidates abroad for training in welfare work?

The Honourable Shri Jagjivan Ram: They are being sent to recognised Universities here and a few to other countries.

Shrimati Dakshayani Velayudhan: Sir, I did not get an answer to what I asked.

Mr. Speaker: That is the answer, she may or may not be satisfied with it.

WASTAGE OF DOLLAR EXCHANGE BY MR. BIMAL P. JAIN ON PLEASURE TRIP FROM CHICAGO TO SAN FRANCISCO

585. *Seth Govind Das: (a) Will the Honourable the Prime Minister be pleased to state whether the attention of Government has been drawn to the report that one Mr. Bimal P. Jain, a merchant of Calcutta, had a 520-dollar taxi pleasure trip over a distance of 2,000 miles from Chicago to San Francisco?

(b) If so, what steps are being taken to stop such wastage of our dollar exchange in foreign countries?

The Honourable Pandit Jawaharlal Nehru: This question should have been addressed to the Ministry of Finance to whom it has been transferred.

EXCHANGE OF PRISONERS WITH PAKISTAN

586. *Giani Gurmukh Singh Musafir: Will the Honourable Minister Without Portfolio be pleased to state:

(a) whether it is a fact that an agreement was arrived at between the Government of India and the Government of Pakistan regarding the exchange of prisoners in the two dominions;

(b) whether it is a fact that the agreement was only partially worked and that a train from East Punjab did not come back from the West Punjab with non-Muslim prisoners as agreed upon;

(c) whether Government are aware that non-Muslim prisoners are put to all sorts of discomforts in the matter of food, clothing and other necessities of life in the various Pakistan prisons;

(d) whether the Government of India have represented the disabilities of the Hindu and Sikh prisoners to the Government of Pakistan;

(e) if the answer to part (d) above be in the affirmative, with what results;

(f) the number of Hindu and Sikh prisoners in the various jails in (i) Pakistan and (ii) West Punjab; and

(g) the latest position regarding the exchange of prisoners?

The Honourable Shri N. Gopalaswami Ayyangar: (a) The honourable member is referred to my answer, in the first two sentences of part (b), to starred question No. 353 by Shri Ananthasayanam Ayyangar on 20th August, 1948.

(b) The honourable member is referred to my reply to the supplementary question, on the 20th August, in connection with starred question No. 859 by Shri Ananthasayanam Ayyangar.

(c) We have received representations about the discomforts suffered by non-Muslim prisoners in Pakistan jails.

(d) Yes. We have been taking the matter up with the Pakistan authorities either directly or through the Deputy High Commissioner, Lahore, on receipt of representations.

(e) In one case, non-Muslim prisoners were reported to be on hunger strike in Lahore Central Jail as a protest against mal-treatment. Our protest to Pakistan elicited the information from them that the non-Muslim prisoners were not on strike.

In another case a report was received from the Shiromani Gurdwara Parbandhak Committee, Amritsar, that the condition of non-Muslim prisoners in the Central Jail Multan, was worsening. We referred the matter immediately to the Deputy High Commissioner, Lahore, for taking it up with the West Punjab Government. The Deputy High Commissioner requested the Inspector General of Prisons, West Punjab, to communicate to us the state of health of these prisoners. But no reply has yet been received from Pakistan.

In a third case we received an alarming report to the following effect about mal-treatment of non-Muslim prisoners in Rawalpindi Jail:

"They were given food below rationed scale. No clothing was supplied to them. Our Liaison Officer and Lady Provincial Organiser of Women Recovery Work in West Punjab were not permitted to visit them. A Sikh prisoner was reported to have been beaten to death by Muslim Staff. Six insane prisoners including one Madrasi and a man from Darbhanga were made to grind every day for hours. They were also mercilessly beaten at times."

We lodged an emphatic protest with the Pakistan Government. An interim reply has been received from that Government stating that the matter is being inquired into.

(f) Separate figures for Hindu and Sikh prisoners in the various jails in Pakistan and West Punjab are not available, but it is estimated that the number of non-Muslim prisoners in various jails in West Punjab will be about 800. Reliable estimates for the whole of Western Pakistan are not yet to hand. The agreement regarding exchange of prisoners does not apply to Eastern Pakistan. Lists of exchangeable prisoners are being compiled by Pakistan in regard to all Hindu and Sikh prisoners in Western Pakistan. These lists will be checked by us before the exchange is put through.

(g) Arrangements regarding exchange of prisoners have finally been agreed to between the two Dominions and the exchange will be completed before the end of the first fortnight of September, 1948. The details of the agreement arrived at will be found in the Press Communique issued on 28rd August, 1948, a copy of which is placed on the table.

PRESS INFORMATION BUREAU

GOVERNMENT OF INDIA

EXCHANGE OF PRISONERS

Agreement Reached

Agreement has been reached with the Government of Pakistan regarding exchange of prisoners including under-trials and detenus. The area to be covered by the agreement is, in Pakistan, the Provinces of West Punjab, N.W.F.P., Sind and Baluchistan and the States acceding to Pakistan in Western Pakistan and, in India, the Provinces of East Punjab and Delhi and all those States previously under the aegis of the Punjab who have now acceded to India and the States of Alwar and Bharatpur. In regard to East and

West Punjab the exchange will be completed according to an agreement already reached with East and West Punjab under which all prisoners who wish to be transferred to either Dominion will be so transferred.

In regard to the States, all Muslims whose families have migrated to Pakistan and who are willing to go will be transferred. Similarly Pakistan will transfer all Non-Muslim prisoners whose families have migrated to Indin and who wish to be transferred to India.

The term 'Hindu' wherever used includes the Scheduled Castes.

In regard to Delhi, it has been decided that Muslim prisoners whose families have migrated to Pakistan and who wish to go there will be so transferred. Similarly, all Hindu and Sikh prisoners who wish to be transferred from Sind to India will be so transferred.

Persons who are guilty of offences committed after 1st August 1948 will not be covered by this agreement.

The agreement will cover inmates of Borstal Jails and Reformatory Schools. The inmates of these institutions will be handed over if their parents and other legal guardians are dead or have migrated to the other Dominion.

Government civil personnel who opted for Pakistan and who are detained as prisoners for offences committed in India or that States acceding to India, will also be transferred provided their families have migrated to Pakistan. Reciprocal action will be taken by Pakistan regarding Government of India personnel in Pakistan, who may be prisoners in any part of that Dominion or States acceding to it.

A list of transferable prisoners will be prepared by either Dominion and checked by the other. All exchangeable prisoners will then be collected and exchanged in one transaction across the border by the requisite number of trains.

Pending the exchange of prisoners, it has been decided that no execution will be carried out in respect of any death sentence passed.

It is expected that the list will be exchanged by the end of this month and the exchange of prisoners completed sometime during the first half of September, 1948.

Ministry Without Portfolio, New Delhi, August 23rd, 1948.

Shri H. V. Kamath: What about those political prisoners who were convicted during the 1942 movement and are still detained in Sind Jails? Has their case being taken into consideration by Government?

The Honourable Shri N. Gopalaswami Ayyangar: If there are any such Hindu and Sikh prisoners in the jails in Western Pakistan, they will be included in the exchange.

Pandit Lakshmi Kanta Maitra: The honourable member referred to the case of a Sikh prisoner being beaten to death. Is he prepared to supply us the full particulars which led to this unfortunate incident?

The Honourable Shri N. Gopalaswami Ayyangar: I have asked the particulars from the Pakistan Government. They have told me that they are making enquiries.

Pandit Lakshmi Kanta Maitra: Is it a fact that the officers of the Government of India who were there tried to elicit information and they were shut out and they were not even allowed to press their case formally?

The Honourable Shri N. Gopalaswami Ayyangar: I have already said that our Lady Provincial Organiser in that area was not allowed even to visit the jail.

Shri M. Ananthasayanam Ayyangar: May I ask the Honourable Minister if it has been ascertained that such of the prisoners who want to go away to Pakistan, whether they would go there and become their nationals or whether they would go there to get released and come back here and settle down once again?

The Honourable Shri N. Gopalaswami Ayyangar: There is no question about their becoming nationals of Pakistan or otherwise. Muslim prisoners who are included in the exchange that is going to take place, cannot, once they get to Pakistan, return here.

Shri H. V. Kamath: May I, Sir, ask for an assurance from the Honourable Minister that one Nanak Iahwar Das Ahuja undergoing rigorous imprisonment for a period of nine years since 1942 will also be released?

The Honourable Shri N. Gopalaswami Ayyangar: I am not aware of the particular case, but if he is in jail in Western Pakistan today, I can assure you that he will be included in the exchange.

Pandit Thakur Das Bhargava: May I know on what basis the Honourable Minister thinks that such prisoners cannot return back to India and is he aware that about ninty of them who were prosecuted in the Gurgaon district, they are now in Gurgaon jail and have come back from Pakistan?

The Honourable Shri N. Gopalaswami Ayyangar: Probably they committed a breach of the law. They must have been arrested and prosecuted perhaps and put in jail again.

Shri M. Ananthasayanam Ayyangar: Is it a part of the arrangement that those prisoners who are sent away to Pakistan should not return at least until the expiry of their terms of imprisonment?

The Honourable Shri N. Gopalaswami Ayyangar: They cannot come back to India from Pakistan, ordinarily speaking.

Pandit Lakshmi Kanta Maitra: Is it also part of the negotiatione that either Dominion is at perfect liberty to set at liberty the prisoners when they are handed over to the respective governments irrespective of their crime?

The Honourable Shri N. Gopalaswami Ayyangar: Once the prisoners go to the Dominion of their choice, then they are dealt with according to law, that is to say, the Government of the State concerned will either execute the rest of the sentence or release them under such powers as they may possess under the law in force there.

Shri Suresh Chandra Majumdar: May I know how many prisoners under death sentence there will be in each of the Dominions for the exchange under the present arrangement?

The Honourable Shri N. Gopalaswami Ayyangar: I am unable to give any accurate figures about it. The lists are coming in and will be complete in a day or two, I expect. Thereafter I shall be in a position to give this information.

Pandit Lakshmi Kanta Maitra: Is the Honourable Minister in a position to give an idea of the number of women prisoners involved?

The Honourable Shri N. Gopalaswami Ayyangar: I am afraid I am not in a position to give that information.

Prof. N. G. Ranga: Will Government take steps to see that these people who are sent over to Pakistan will not be allowed to come back to this country?

The Honourable Shri N. Gopalaswami Ayyangar: There is an Ordinance which puts a check on their coming back.

Shri Arun Chandra Guha: Are there any non-Muslim political prisoners in Sind?

The Honourable Shri N. Gopalaswami Ayyangar: The arrangement applies to all prisoners—whether political or otherwise.

Shri Mahavir Tyagi: Has any point been fixed on our boundary where the exchange of these prisoners will take place actually?

The Honourable Shri N. Gopalaswami Ayyangar: The arrangement reached is that we shall collect all Muslim prisoners in India at Amritsar and Pakistan

will collect all their prisoners on the other side at Lahore. Probably, though it has not yet been finally settled, the actual exchange will take place at Attari between the two places.

Prof N. G. Ranga: Is there any last date fixed after which prisoners who go on accumulating either on this side or on the other side will not be allowed to be exchanged in this manner?

The Honourable Shri N. Gopalaswami Ayyangar: The date fixed is 1st August 1948.

Dr. P. S. Deshmukh: May I know who has the larger number of prisoners —India or Pakistan?

The Honourable Shri N. Gopalaswami Ayyangar: I think it is Pakistan which holds the larger number of prisoners today.

Dr. P. S. Deshmukh: What will happen to the excess number which Pakistan holds if we are not in a position to give as many prisoners from India?

The Honourable Shri N. Gopalaswami Ayyangar: The exchange is not a kind of barter. We are not exchanging equal numbers. All prisoners on the other side come over here and all Muslim prisoners go over to the other side.

IMPLEMENTATION OF YOUNG PLAN OF 1943 AND CONCILIATION BOARD AWARD OF 1947 BY COLLIERY OWNERS OF HAZARIBAGH AND MANBHUM COAL SYNDICATE

*587. **Shri H. V. Kamath:** Will the Honourable Minister of Labour be pleased to refer to his answer to my starred question No. 1308 asked on the 7th April 1948 and state:

(a) whether all the colliery owners belonging to the Hazaribagh and Manbhum Coal Syndicate have implemented the Young Plan of 1943 and the Conciliation Board Award of 1947; if not, who have and who have not;

(b) what steps Government propose to take against the colliery owners who have not done so, so as to secure implementation by them of the aforementioned plan and the award;

(c) how much money by way of Target Bonus was disbursed by Government to the owners for distribution among colliery labour during the years 1943-45; and

(d) whether Government have ascertained that the bonus reached the workers for whom it was intended?

The Honourable Shri Jagjivan Ram: (a) and (b). Government understand that all collieries belonging to the Hazaribagh and Manbhum Coal Syndicate had implemented the 'Young Plan' of 1943. The colliery owners concerned have also generally implemented the recommendations of the Board of Conciliation (Colliery Dispute). Officers of the Central Industrial Relations Machinery working in the coalfields inspect the collieries with a view to ensuring full implementation of the recommendations of the Conciliation Board. Cases of non-implementation of specific recommendations are brought to the notice of the Managements concerned either directly or through Mine Owners' Associations of which these collieries are members.

(c) The two Bonus Schemes sanctioned in 1944 and 1945 by the late Supply Department of the Government of India for the encouragement of Coal production did not provide for any payment to colliery labour by colliery owners from out of the amounts received by them from Government as bonus.

(d) Does not arise.

*Answer to this question laid on the table, the questioner not having put the question.

INDIAN PLANTATION LABOURERS IN CEYLON

†588. ***Srijut Kuladhar Chaliha:** Will the Honourable the Prime Minister be pleased to state:

(a) the number of Indians in Ceylon working as plantation labourers;

(b) whether their names appear in any Government record there;

(c) if not, whether Government propose to make enquiries and ascertain their number and their condition in Ceylon; and

(d) whether they have the necessary franchise?

The Honourable Pandit Jawaharlal Nehru: (a) The Indian estate labour population in Ceylon was 735,716 at the end of 1947.

(b) So far as we are aware, no record as such is maintained by the Ceylon Government of Indian labourers working on estates. Under the law, however, the names of all Indian estate labourers have to be kept in registers maintained by the estates where they are employed. The names of those labourers who are registered as voters will also be found in the Register of Voters maintained by the Ceylon Government.

(c) Does not arise.

(d) Yes, if they possess the prescribed qualifications.

WAINGANGA SCHEME IN CENTRAL PROVINCES

589. ***Shri Lakshminarayan Sahu:** Will the Honourable Minister of Works, Mines and Power be pleased to state:

(a) at what stage the Wainganga scheme in the Central Provinces is;

(b) whether it is proposed to re-consider or modify the Ramapadasagar scheme in view of the Wainganga scheme; and

(c) whether it is proposed to consider the Godavari river and its tributaries as one single integrated scheme for multi-purpose development with the co-operation of the Provinces and States concerned, and whether any steps have been taken in that direction?

The Honourable Shri N. V. Gadgil: (a) The scheme is still in the preliminary stage of investigation.

(b) The Ramapadasagar scheme has been reconsidered *vis-a-vis* the Wainganga scheme.

(c) Yes. Investigation on a basin-wide scale are being planned, those on the Wainganga are under preliminary investigation and those on the Indravati and other tributaries are proposed to be progressively taken in hand. In the meantime execution of the essential schemes, *e.g.*, Ramapadasagar which will form an integral part of the basin-wide scheme, will be expedited as far as possible.

Seth Govind Das: Is the investigation on the Wainganga scheme going on with the help of the C. P. Government or only by the Government of India?

The Honourable Shri N. V. Gadgil: It is primarily the function of the C.P. Government to investigate the scheme and such help as they require is always put at their disposal.

Seth Govind Das: Have the Government of India received any report from the C.P. Government with regard to the investigation of this scheme?

The Honourable Shri N. V. Gadgil: The report has just been received.

†Answer to this question laid on the table, the questioner being absent.

Prof. N. G. Ranga: Have Government concluded any contract with American engineering firms in regard to the construction of the Ramapadasagar project?

The Honourable Shri N. V. Gadgil: I do not think so.

Prof. N. G. Ranga: How soon is that project going to be taken up? Have plans being sanctioned by Government?

The Honourable Shri N. V. Gadgil: The position with respect to the Ramapadasagar is this that the preliminary investigation and the exploratory investigation and even the design stage are complete and it is ready for construction. As soon as the administrative sanction and financial arrangements are made the construction will be undertaken.

Prof. N. G. Ranga: How long has it been since all these plans and designs and other things have been got ready and the decision of Government has been awaited?

The Honourable Shri N. V. Gadgil: The designs were complete only a few weeks ago.

Seth Govind Das: Have the Government of India received the investigation report on the Wainganga scheme from the C.P. Government? May I know how long they will take to investigate it further and by what time the scheme may be expected to be taken on hand?

The Honourable Shri N. V. Gadgil: It is impossible to state precisely the period during which this investigation report can be scrutinised, but it will be done as soon as possible.

Shri M. Tirumala Rao: Are Government satisfied that the Government of Madras are proceeding earnestly with the Ramapadasagar scheme?

The Honourable Shri N. V. Gadgil: I am very much satisfied about it.

INTERRUPTIONS IN SUPPLY OF ELECTRICITY IN AJMER AND BEAWAR

890. *Pandit Mukut Bihari Lal Bhargava: (a) Will the Honourable Minister of Works, Mines and Power be pleased to state whether it is a fact that there have been repeated interruptions in the supply of electric energy to the consumers in the towns of Ajmer and Beawar during the last two years?

(b) If so, what are the reasons for these interruptions and what steps have been taken by Government so far to ensure a continuous supply of electricity in future?

(c) What action, if any, was taken by Government against the Electric Supply Companies in these areas for the repeated failure of supply in the past?

(d) Is it a fact that the hours for the supply of electricity in the town of Beawar have been curtailed?

(e) If so, since when and for what reasons?

(f) What steps have been taken by Government to safeguard the interest of the consumers, affected by such curtailment and when is it expected to restore the normal supply?

The Honourable Shri N. V. Gadgil: (a) Yes.

(b) In Ajmer, there were short interruptions on five different occasions during the last two years, for a total duration for about ten hours, mostly due to unexpected plant breakdown.

In Beawar, there were interruptions for considerable periods during the last seven months, mainly due to shortage of fuel oil supplies and inadequacy of

plant. The Government of India are trying their best to ensure reasonable supply of fuel oil to the Electric Supply Undertakings.

(c) No action was taken by Government against the Electric Supply company at Ajmer, as the failure was beyond the latter's control. As regards the Company at Beawar, a strong warning was given to them and a written undertaking was obtained from them for ensuring continuous and better supply of electrical energy. I may also assure the Honourable Member that the Local Administration will deal suitably with any Electric Supply Company which fails to ensure regular supply of current for avoidable reasons.

(d) Yes.

(e) The curtailment was introduced on or about 1st July 1948, with a view to conserve the existing stocks of Diesel Oil as far as possible and thus to prevent a complete shut-down of the Power House.

(f) The curtailment was made as the only possible solution of the difficulty and in the interest of consumers, no further action on the part of Government other than those already stated is necessary. Normal supply will be restored as soon as the supply position of essential commodities for the running of the Power House, improves.

CONFERENCE OF PREMIERS OF PROVINCES AND REPRESENTATIVES OF STATES re-REHABILITATION OF REFUGEES

591. *Giani Gurmukh Singh Musafir: Will the Honourable Minister of Relief and Rehabilitation be pleased to state:

(a) whether it is a fact that a conference of Premiers of Provinces and representatives of States was held in New Delhi on the 19th and 20th of July, 1948;

(b) whether it is a fact that the conference recommended the allocation of refugees to different provinces and states;

(c) whether it is fact that the conference made a recommendation to the Government of India for enacting immediate legislation for regulating and enforcing movements of refugees from one province to another in the Indian Union;

(d) whether it is a fact that the conference was sub-divided into two committees;

(e) whether it is a fact that the sub-committee by which allocation of refugee population and legislation for regulating and enforcing movements of refugees were recommended did not include the Honourable Minister himself and the members of the Rehabilitation and Development Board; and

(f) whether it is a fact that neither a single leading refugee nor a refugee organisation was consulted before the decisions were taken in the conference?

The Honourable Shri Mohan Lal Saksena: (a) Yes.

(b) Yes.

(c) Yes.

(d) Yes.

(e) Yes. Sub-committee No. I which recommended allocation of refugees and legislation for regulating and enforcing movement of refugees did not include the members of the R. and D. Board or myself. Shri C. N. Chandra, Secretary, however represented the Ministry of Relief and Rehabilitation.

(f) Yes.

REHABILITATION OF REFUGEES IN PROVINCES

592. *Giani Gurmukh Singh Musafir: Will the Honourable Minister of Relief and Rehabilitation be pleased to state:

(a) whether it is a fact that there are about five lakhs refugees in Delhi, about four and a half lakhs each in Bombay and the United Provinces and about one lakh in the Central Provinces;

(b) whether it is a fact that in the conference of Premiers and representatives of States convened by the Ministry of Relief and Rehabilitation in New Delhi on the 19th and 20th July 1948, the following quotas have been suggested:

Delhi	1 lakh.
United Provinces	3 lakhs.
Bombay	4 lakhs.
Central Provinces	3 lakhs.

(c) if so, what were the reasons for reducing the quotas of Delhi and the United Provinces to one lakh and three lakhs respectively and increasing the quota of the Central Provinces from one lakh to three lakhs and for retaining the quota of Bombay at four lakhs; and

(d) whether it is a fact that the population of the United Provinces is over five and half crores and that of Bombay and Central Provinces only about two crores and 1:7 crores respectively?

The Honourable Shri Mohan Lal Saksena: (a) No reliable figures are available. Rough estimates indicate that there are over four lakh refugees in Delhi, four and a half lakh in the United Provinces, over three quarters of a lakh in the Central Provinces and Berar. Estimates for the Bombay Province are not available; but it is believed that there are over three and a half lakh refugees in that Province.

(b) Yes.

(c) The recommendations of the Conference, in this respect, were based upon the capacity of each province effectively to rehabilitate the refugees.

(d) Yes.

Shri Deshbandhu Gupta: Have any steps been taken to enforce the decision or the recommendations made by this conference?

The Honourable Shri Mohan Lal Saksena: The recommendations are still under the consideration of Government.

Prof. N. G. Ranga: With regard to part (c) why was it accepted by the conference as well as the Ministry, in view of the reason given here that the U.P. has got a much bigger population than Bombay?

The Honourable Shri Mohan Lal Saksena: The difficulty is that the refugees do not want to go beyond the western districts of the U.P., at least not the eastern parts of the U.P.

Shri Deshbandhu Gupta: Is it not a fact that the number of refugees in Delhi has gone up further since this conference met?

The Honourable Shri Mohan Lal Saksena: It may be so but exact information is not available.

TECHNICAL AND VOCATIONAL TRAINING BY EMPLOYMENT EXCHANGES

593. *Babu Ramnarayan Singh: Will the Honourable Minister of Labour be pleased to state:

(a) the number of the centres province-wise opened by the Department of Employment Exchange for giving technical and vocational training;

(b) the total number of scholars at present receiving vocational training;

(c) the average amount of expenditure incurred on each scholar and the period for which each scholar has to be under training;

(d) the names of such centres in the province of Bihar; and

(e) the method of informing the people in the villages of these activities of the Department of Employment Exchange?

The Honourable Shri Jagjivan Ram: (a) I lay on the table a statement showing the Technical and Vocational Training Centres in the Provinces, established by the Directorate General of Resettlement and Employment.

(b) 15,337 ex-Servicemen and refugees were undergoing training at the Centres on the 31st July, 1948.

(c) The average *per capita* cost of training at Training Centres in Rs. 22 per month. The *per capita* cost of Apprenticeship Training is very small as the facilities are generally provided by the firms, free of charge.

The average cost of concessions to trainees by way of stipends, free board and lodging free medical treatment, comes to Rs. 48 per month per trainee.

The period of training varies from trade to trade and individual to individual but on an average it extends to twelve months.

(d) The names of the Training Centres in the Province of Bihar are given in a statement which I also lay on the table of the House.

(e) Information about the facilities for Technical and Vocational training is publicised in the rural areas through the Public Relations staff of the Directorate General, the Mobile Exchange vans of the Employment Exchanges, posters and leaflets in the local languages and periodical broadcasts in the rural programme of the All India Radio from all its stations.

Statement

Part (a)—

Technical and Vocational Training Centres of the Directorate General of Resettlement and Employment

Province	Technical Training Centres	Vocational Training Centres	No. of industrial undertakings providing apprenticeship training	Total
Assam	1	1	10	12
Bihar	8	11	10	29
Orissa	1	4	2	7
Bombay	5	11	28	44
C. P. & Berar	2	2	8	12
Delhi and Ajmer Mrwara	4	2	2	8
East Punjab	15	14	19	48
Madras	33	19	34	86
U.P.	9	46	17	72
West Bengal	8	10	39	57
Total	86	120	169	375

Part (d)—

Technical and Vocational Training Centres in the Province of Bihar.

Technical Training Centres—

(1) Bihar College of Engineering, Patna.
(2) Jamshedpur Technical Institute, Jamshedpur.
(3) Bhartiya Engineering Works, Shahibgunj.
(4) Indian Clock Manufacturing Co., Ltd., Tatanagar.
(5) Ranchi Technical School, Ranchi.
(6) Hindustan Bicycle Manufacturing Co., Ltd., Patna.
(7) Tirhut Technical Institute, Muzaffarpur.
(8) Combined Training Centre, Dighaghat, Patna.

II. *Vocational Training Centres*—

(1) Imperial Institute of Commerce, Patna.
(2) Bihar Industrial Concerns, Patna.
(3) Falgoo Ice Factory, Gaya.
(4) Ranchi Textile Mills, Ltd., Ranchi.
(5) Simdega Tailoring School, Simdega, Ranchi.
(6) Rengarih Weaving School, Rengarih, Ranchi.
(7) Kanke Agricultural Farm, Ranchi.
(8) Patna Agricultural Farm, Patna.
(9) Sabour Agricultural Farm, Bhagalpur.
(10) Sepya Agricultural Farm, Saran.
(11) Oriental Tailoring Company, Patna.

III. *Apprenticeship Training Centres*—

(1) Messrs. K. H. Roy and Sons, Ranchi.
(2) Messrs. S. S. Jotola, Ranchi.
(3) Chotanagpur Engineering Works, Ranchi.
(4) Bankipur Iron Works, Patna.
(5) Bhartiya Engineering Works, Shahibgunj.
(6) British Insulated Calendar Cables Ltd., Jamshedpur.
(7) British Insulated Calendar Cables, Ltd., Purulia.
(8) Messrs. Bihar Industrial Corporation, Deoghar.
(9) Bihar Iron and Steel Rolling Co., Deoghar.
(10) Tata Locomotive and Engineering Co. Ltd., Tatanagar.

Prof. N. G. Ranga: Have any efforts been made to inform the High School and Middle School authorities in regard to these facilities provided by Government?

The Honourable Shri Jagjivan Ram: It is not necessary to inform them because these training centres are meant for ex-servicemen and refugees and not for school students.

Babu Ramnarayan Singh: May I know whether the people in the mofussil are informed of these activities of Government, so that they may also avail themselves of this opportunity?

The Honourable Shri Jagjivan Ram: Provided they are ex-servicemen and not the general public, because as I have said these schemes do not apply to the civilian population. They are meant only for ex-servicemen and refugees. As regards the ex-servicemen, at the time of demobilization it is explained to them as to what are the facilities provided by Government for their resettlement and in this way they come to know about the existence of these training centres. Over and above that, as I have already explained, our Public Relations Officer contacts the ex-servicemen and these facilities are explained to them through the publicity departments of the various Provincial Governments concerned and also broadcast by the All-India Radio through all its sub-stations.

Prof. Shibban Lal Saksena: Are there any schemes for absorbing these trained personnel into useful work.

The Honourable Shri Jagjivan Ram: Of course whatever is done is done according to plan and the question of absorbing these people does not arise,

because there is such a demand from Industry for these people, that, as a matter of fact, these ex-servicemen are snatched up by industrialists before they can go through their course.

Prof. N. G. Ranga: Is it proposed to maintain these training centres for the benefit of the civilian population also?

The Honourable Shri Jagjivan Ram: I have been examining this question in consultation with the Provincial Governments, because education being a provincial subject, we cannot carry on these training centres for all time to come, and I am hopeful that the Provincial Governments will take over these training centres.

Prof. Shibban Lal Saksena: In view of the large demand, is Government considering ways to expedite the training and opening more centres?

The Honourable Shri Jagjivan Ram: That is covered by my previous answer that education being a provincial subject, the Central Government cannot think of educating the civil population on their own initiative.

Babu Ramnarayan Singh: Is the Honourable Minister aware of the fact that the civil population also is in need of such help from the Government?

The Honourable Shri Jagjivan Ram: There is no denying the fact that the civil population is in need of such help and facilities. But that is for the Provincial Governments to see to.

REPORT OF LABOUR INVESTIGATION COMMITTEE *re* EMPLOYERS IN PRINTING PRESSES.

504. *Shri Gopikrishna Vijayavargiya: Will the Honourable Minister of Labour be pleased to refer to the answer to part (b) of starred question No. 600 asked by Mr. Kailash Bihari Lall in the Central Legislative Assembly on the 20th of November 1944, regarding the statistics of private newspaper owners and their employees and state whether Government have received the report of the Labour Investigation Committee referred to therein?

The Honourable Shri Jagjivan Ram: Yes. A copy is available in the Library of the House.

Shri Gopikrishna Vijayavargiya: As I find that my question as printed is a bit mutilated, I have to put some other question. As the conditions of employment of employees of private newspapers are very bad has the Government any plan to ameliorate those conditions? Is there any mention of them in the Labour Investigation Committee Report and has Government any plans for their amelioration?

The Honourable Shri Jagjivan Ram: I have not been able to follow.

Mr. Speaker: Have Government any plans for the betterment of the conditions of employees of privately owned newspapers?

The Honourable Shri Jagjivan Ram: The regulated presses are covered by the Factories, the Electricity, the Workmen's Compensation and the Wages Acts. The unregulated presses are covered in certain areas and provinces by Trades Employees and Commercial Establishment Acts, and proposals to bring in a Central regulation for regulating all establishments and commercial undertakings is also under consideration.

Shri Gopikrishna Vijayavargiya: May I know whether Editors and Assistant Editors in various newspapers are also covered by the term 'workers' and whether the rules apply to them also?

The Honourable Shri Jagjivan Ram: I will refer my honourable friend to the various Acts that have been promulgated by the Provincial Governments.

MACHINERY OBTAINED AS WAR REPARATIONS FROM GERMANY

595. *Shri S. V. Krishnamurthy Rao: Will the Honourable Minister of Commerce be pleased to state:

(a) the number of machines or machinery parts that India got from Germany as war reparations;

(b) how long it is since they arrived in India;

(c) whether it is a fact that they are lying exposed to wind and rain in Bombay and Madras harbours;

(d) whether it is a fact that they do not form a single unit of any particular industry;

(e) why they are kept so long without being disposed of; and

(f) whether Government propose to dispose them of early to avoid depreciation and if so, when?

The Honourable Shri K. C. Neogy: The question concerns the Ministry of Industry and Supply. It has accordingly been transferred to the list of questions for the 4th September 1948, when the Honourable Minister of Industry and Supply will answer it.

Mr. Naziruddin Ahmad: On a point of procedure, I suggest that if a question is wrongly addressed to any Minister that should not be printed and a formal answer need not be given. The question should be transferred to the proper Ministry and the member informed. Instead of that, the question is unnecessarily printed and some time of the House is needlessly taken.

Mr. Speaker: This point has been raised several times in the House and the explanation given is that in all cases where the mistake is found out in time, steps are taken to transfer the question and print it accordingly. But sometimes this comes to light a little too late and it is only on those occasions that answers of this type are given.

Shri H. V. Kamath: I find from the list of subjects given in the circular that reparations are allotted to the Minister of Commerce. This includes, I believe, war reparations from Germany.

The Honourable Shri K. C. Neogy: That is so. So far as war reparations generally are concerned they refer to the Commerce Ministry, but when any plants or machinery are received on account of reparations, the question of allocation of those plants and machinery is the responsibility of the Ministry of Industry and Supply.

Shri H. V. Kamath: The circular is not quite clear on this point. The distinction seems rather subtle.

Mr. Speaker: It is subtle!

REHABILITATION OF REFUGEES FROM EAST BENGAL

596. *Shri Arun Chandra Guha: Will the Honourable Minister of Relief and Rehabilitation be pleased to state:

(a) whether it has been the policy of the Government of India to treat the refugees from West Pakistan and from East Bengal on the same footing as regards relief and rehabilitation;

(b) whether it is a fact that in anticipation of the refugees coming from East Bengal, certain portions of India, *viz.*, Assam and West Bengal were particularly set apart as special zones for the rehabilitation of refugees from East Bengal;

(c) whether it is a fact that the Government of India also decided that for the purpose of rehabilitation of refugees from East Bengal certain other

portions of India, *viz.*, Orissa, Bihar and the eastern districts of the United Provinces were also to be made available;

(d) if the answers to parts (b) and (c) above be in the affirmative, what directives the Government of India have given to the Governments of Assam, West Bengal, Bihar, Orissa and the United Provinces in this regard;

(e) whether the Government of India have provided these Governments with any funds for the rehabilitation of the refugees from East Bengal;

(f) whether the Government of India are willing to take up the question of the rehabilitation of the refugees from East Bengal with the States of Cooch-Behar, Mayurbhanj and Tripura?

The Honourable Shri Mohan Lal Saksena: (a) Yes.

(b) Yes.

(c) Yes.

(d) A copy of the d.o. letter No. RH.521(17), dated 23rd April, 1948, addressed by the Honourable Shri K. C. Neogy to the Premiers of Provinces is placed on the table of the House.

(e) No.

(f) The Government of India are already in correspondence with the States of Cooch-Behar and Tripura regarding rehabilitation of refugees. The question will also be taken up with Mayurbhanj State, when necessary.

GOVERNMENT OF INDIA

MINISTRY OF RELIEF AND REHABILITATION

D.O. No. RH-521(17)

New Delhi, the 23rd April, 1948

My dear,

The Government of India have from time to time issued various letters explaining the extent to which they are prepared to afford financial assistance to Provinces in connection with relief and rehabilitation expenditure incurred by them. There appears, however, to exist a certain amount of misunderstanding among the Provinces about the matter and with a view to removing it I am enclosing a note summarising the position.

2. As you are aware, we are evacuating all non-Muslims from Sind also. This will mean an influx of another 7 lakh refugees in addition to about 52 lakhs who are already in India from West Pakistan and West Pakistan States. Moreover, a large number of Hindus have evacuated from Eastern Bengal. The first problem is to give immediate relief to refugees and the next to settle them permanently. The Government of India have opened as many relief camps in the Centrally administered areas as possible, but the bulk of the refugees will necessarily have to be placed in camps in Provinces and States. The Government of India consider that for obvious reasons the latter camps can best be administered only by the Government of Provinces or State in which they are located, and not by an external authority which has no local experience or powers. The Provincial or State Governments should therefore assume the responsibility for management of the camps. The Government of India are prepared, however, to give not only the maximum financial assistance justified by the circumstances of each Province but also such other assistance as may be required and possible. Refugee camps have, however, already been opened in your Province and it is considered that your Government should not only administer them but also open the new ones if possible.

3. I would like to make it clear that the mere fact that the Provinces have taken a certain number of refugees for purposes of relief, does not necessarily mean that they have to rehabilitate them also. The extent of rehabilitation would depend on the extent of rehabilitation cum development schemes which could be urgently put into operation in any area, and would require further discussion between the Government of India and the Province concerned. The East Punjab, the East Punjab States, Delhi and certain other Centrally administered areas are trying to settle the maximum number that can be rehabilitated but as far as can be judged at present, there would still be over 2 millions excluding those coming out of East Bengal who have to be rehabilitated in the other parts of the Indian Union. Speaking generally, it is felt that Bengal and Assam together with connected States like Cooch Bihar

and Tripura should be reserved exclusively for possible migrants from East Bengal; Bihar and Orissa and eastern parts of U.P. should be open to migrants from both Eastern and Western Pakistan; and the other Provinces and States of India should for time being be reserved exclusively for migrants from Western Pakistan. These remarks apply to Government assisted rehabilitation of refugees. It is obvious that many refugees will rehabilitate themselves, and will require no Government assistance. In such a case no restriction is placed upon the movement of any refugee to any part of the Indian Dominion. It is requested that the Provincial Government should not in any way place any embargo on the resettlement of such refugees and any restrictions regarding domicile or acquisition of property rights in the Province or State should be removed in so far as refugees from Pakistan are concerned. I should be very grateful if you would investigate the matter and let the Government of India know what number can be absorbed in your Province. The attached Note indicates the extent of financial assistance which the Provinces can have from the Central Government and also makes a few suggestions for the consideration of the Provinces.

4. I am enclosing for ready reference copies of schemes which have already been sanctioned and of scales of food, etc., which we have laid down for refugees camps. I also enclose a copy of the accounting instructions which we have issued for maintaining cash and stock accounts in camps.

Yours sincerely,
(Sd.) K. C. NEOGY.

MINISTRY OF FINANCE (RELIEF AND REHABILITATION DIVISION)

Note on Financial Assistance to Provinces

Broadly speaking, the expenditure on refugees falls under two heads: (i) Relief and (ii) Rehabilitation.

Relief involves provision of food, clothing, accommodation, sanitation, medical treatment, administration of camps, etc. For food and clothing, the Government of India have laid down certain scales which have been circulated to all Provinces. Accommodation is provided in tents or temporary structures or such vacant buildings as are available for the purpose.

2. Expenditure on relief measures is a final charge. While the Government of India trust that Provinces will also be able to contribute whatever they can from their own resources, and also to exploit public and private generosity to the maximum extent, they will be prepared to make good the balance of expenditure provided the Provincial Governments ensure that satisfactory accounts are maintained and audited and the scales of relief, etc., are generally in conformity with those laid down by the Government of India. The Provinces should submit schemes to the Government of India for their general approval but in cases of urgency where this is not practicable, the schemes should be forwarded as soon as practicable. At all events, in view of the immediate necessity of giving relief to refugees, they are expected to get on with relief measures on the assurance that such financial assistance as is justified would be forthcoming from the Central Government. Separate accounts of cash and stores, including accounts of receipts from private sources, are required to be maintained and should be audited by Provincial Accountants-General both locally and centrally. Accountants-General should be consulted as regards the procedure for the maintenance of all necessary accounts of cash and stores and their instructions should be duly observed.

3. Rehabilitation is a long-term programme and it has to be borne in mind that permanent rehabilitation of refugees cannot be divorced from various Reconstruction and Development Schemes which Provinces have under consideration. In fact the rehabilitation should, so far as possible, form an integral part of such schemes. As is well known, the Government of India have already promised generous assistance to the Provinces for schemes approved by them. A careful integration of the two is bound to be both economical and administratively convenient. It is also to be realised that the refugees settling in Provinces will, in course of time, add to the economic prosperity of the Province concerned, and it is in the Provinces' own interest to give them the utmost assistance. In so far as new schemes, which are not already part of development programmes, may be formulated, solely for rehabilitation purposes, the Government of India will consider any proposals for financial assistance for rehabilitation which are supported by detailed schemes.

4. Rehabilitation involves permanent resettlement of refugees. Some of them will no doubt be able to secure employment either in Government Departments or in private business, industry or commercial institutions. Their problem is simplified as no further expenditure is necessary in their case.

Arrangements may have to be made either in camps or other institutions for the training of refugees in various arts and crafts and for imparting technical education to them. There

may be cases where free grants to destitute refugees may be given in special circumstances. A large number of refugees may desire to start their own business or industry and others may have to be resettled on land. The best form of assistance in their case would be a loan. The Government of India have already sanctioned the following schemes for various purposes :

(a) To students and/or trainees for continuing their studies and/or training in a recognised institution or college.

(b) Petty loans to urban refugees up to a maximum of Rs 5,000 for the purchase of tools, trading equipment, stock-in-trade, raw materials, etc., etc.

(c) Loans to rural population for resettling on land. These loans are intended to cover expenses on bullocks, agricultural implements, fodder, building or repairing houses, etc., etc. These loans are to be given under the normal rules for the grant of Taccavi Loans for which Acts are already in force in various Provinces.

(d) Loans to doctors (including dentists, radio-logists, etc.), and legal practitioners up to Rs. 3,000 for rehabilitating themselves.

Where Provinces are unable to finance such loans from their own resources the Central Government are prepared to make ways and means advances on such terms and conditions as may be agreed upon. In addition, the Government of India are also prepared to share any *bona fide* losses which may be incurred by Provinces on loans which become irrecoverable.

It is, however, recognised that there may be other items relating to rehabilitation schemes the expenditure on which cannot be met by the Provinces from their own resources, and they may require financial assistance from the Government of India either in the form of ways and means advances or grants. In all such cases Provinces should submit details of schemes for prior acceptance of the Government of India indicating the extent of financial assistance required. Separate accounts should be maintained by Provinces of all expenditure on rehabilitation and these should be audited by the Provincial Accountants-General.

In addition to the schemes for the grant of loans to refugees directly from Government funds, attention of the Provinces is also invited to two Acts recently passed by the Constituent Assembly (Legislative). One—the Rehabilitation Finance Administration Act—provides for the grant of loans exceeding Rs. 5,000 and up to Rs. 1,00,000 to refugees settling in Provinces for business and industry. The other—Industrial Finance Corporation Act—caters for the grant of bigger loans for large scale industry. The Provinces should consider what use can be made of the provisions of these Acts in their Rehabilitation Schemes.

5. The following further suggestions are offered for consideration :

(a) The food problem in India is of paramount urgency and if only we can increase our production substantially it will not only save imports from foreign countries (which are a serious drain on our foreign exchange resources) but will also ease the general economic position of the entire Indian Union all round. It is understood that there are large tracts of cultivable land which are lying fallow and particular attention may be paid to, bringing larger areas under cultivation, where possible, co-operate farming should be encouraged. Irrigation schemes can be linked up with "grow more food" plans.

(b) Schemes for increasing general literacy in a Province could be integrated with the measures for the education of refugee students, and relief of educated classes who can be employed as teachers.

(c) Existing townships should be expanded where possible and new towns developed at suitable sites and be linked with schemes for developing cottage industries, workshops, etc. Some of the refugee camps could also be developed into townships.

(d) All post-war reconstruction and development schemes should be reviewed and revised, if necessary, with a view to absorbing as many refugees as possible.

(e) In view of the fact that there are a large number of refugees belonging to various professions who are in need of employment, the Provinces could reserve a certain percentage of vacancies for them.

(f) Schools for refugees need not, and should not be held up for want of buildings on the scale normally adopted, but temporary and cheap shelters and, where suitable, even open air classes should be arranged.

(Sd.) BRIJ NARAYAN,

30-3-48

(b) WRITTEN ANSWERS

RECOMMENDATIONS OF MICA ENQUIRY COMMITTEE

597. *Shri V. C. Kesava Rao: Will the Honourable Minister of Works, Mines and Power be pleased to state the recommendations of the Mica Enquiry Committee that have been implemented?

The Honourable Shri N. V. Gadgil: The recommendations of the Mica Enquiry Committee have been borne in mind generally, by both the Central and Provincial Governments. Recommendation No. 51, which relates to medical and health facilities for Mica Labour and its general welfare, has been implemented by the enactment of the Mica Mines Labour Welfare Fund Act, 1946. Recommendation No. 55, which relates to the lowering of tariffs on imports of manufactured Mica by the United States of America, has been implemented by suitable action taken by the Ministry of Commerce.

As regards some of the other recommendations, the Government of India directly concerned with some of them, which have been commended to the Provincial Governments concerned, for necessary action.

As regards some of the other recommendations, the Government of India are awaiting the final views of the Government of Bihar before considering further action.

The question of standardisation of Mica is being considered by a Sub-Committee set up by the Indian Standards Institute. Another Committee is also being set up to consider the question of marketing. When this Ministry's Bill for the regulation and development of Mines and Minerals, which is at present before the house, is enacted, the Central Government will have the power to frame rules to implement some other recommendations.

CONTROL OVER CHARGES MADE BY HOTELS IN NEW DELHI

598. *Shri V. C. Kesava Rao: (a) Will the Honourable Minister of Works, Mines and Power be pleased to state whether there is a control over the charges for hoarding and lodging levied by hotels in New Delhi and if so, in what way it is being exercised by Government?

(b) Have there been any recent prosecutions for over-charging?

The Honourable Shri N. V. Gadgil: (a) Yes. Part IV of the Bombay Rents, Hotel Rates and Lodging House Rates (Control) Act, 1944 (Bombay Act VII of 1944) has been extended to the Municipality of New Delhi. Fair rates for the charges for board, lodging and any other services provided by the hotels or the lodging houses, are fixed by the Deputy Commissioner of Delhi, who has been appointed "Controller" under the said Act. A copy of the said Act as extended to New Delhi Municipality is placed in the library of the House.

(b) No.

APPEAL TO GOVERMENT SERVANTS TO SHARE HOUSES WITH REFUGEES AND OTHER GOVERNMENT SERVANTS

599. *Shri V. C. Kesava Rao. (a) Will the Honourable Minister of Works, Mines and Power be pleased to state whether it is a fact that Government servants were requested to share their houses with other Government servants or refugees?

(b) What has been the response to this appeal?

The Honourable Shri N. V. Gadgil: (a) Yes

(b) There has been some response.

EMPLOYMENT OF CHILDREN IN INDUSTRIES

600. *Shri V. C. Kesava Rao: (a) Will the Honourable Minister of Labour be pleased to state what are the industries at present in which children are employed and what steps have been taken to prevent such employment?

(b) Has there been any prosecution for employing children?

The Honourable Shri Jagjivan Ram: (a) and (b). A statement is laid on the table of the House.

Statement

Children as such as are not prevented from working in industrial establishments. Under the Factories Act, 1934, and the Factories Bill, 1948, a child is defined as a person who has not completed his 15th year. Children below the age of twelve years were not allowed to work in any factory under the Factories Act, 1934. This limit is being raised to fourteen years now.

In establishments not covered by the Factories Act, 1934, the employment of Children Act, 1938, prohibits the employment of children below twelve years in certain industries specified in the schedule appended to that Act. The Government of the United Provinces have recently notified their intention to extend the provisions of that Act to the brassware and glass bangles industries. The India Mines Act, 1923, prohibits altogether the employment of children, i.e., persons below the age of 15 years.

No information showing the present position with regard to the employment of children below 12 years is available, but when the Labour Investigation Committee conducted enquiries in 1944-45, children below the age of twelve years were found to be employed in the following industries. (i) Glass (ii) Carpet. (iii) Weaving. (iv) Mica Mining. (v) Plantations. (vi) Bidi. (vii) Match, and (viii) Cement.

Copies of the reports of the Labour Investigation Committee were duly forwarded to the Provincial Governments concerned.

It was decided at the second meeting of the Industrial Committee on Plantations to prohibit the Employment of children below the age of twelve years in Plantations. The Planters' Association have already given effect to this decision by requesting their members not to employ children. Necessary legislation to implement this and other decisions of the Committee will be undertaken shortly.

The owner of a mica mine in the Hazaribagh District was prosecuted in 1946 for employing children. He was fined Rs. 100. In a few cases children were found employed in Railway establishments and Port Trusts, but they were discharged as soon as the irregularity was brought to the notice of the authorities concerned.

Except the Indian Mines Act, 1923, the other legislation enactments prohibiting the employment of children are administered by the Provincial Governments and no information with regard to prosecutions instituted by Provincial Governments in contravention of the Legislation above is available.

ORPHAN EVACUEE CHILDREN UNDER GOVERNMENT CUSTODY

601. *Shri V. C. Kesava Rao: (a) Will the Honourable Minisetr of Relief and Rehabilitation be pleased to state the number of orphans (evacuees) under the custody of Government?

(b) Has any request been received from the public for adopting some of these children?

(c) What steps do Government propose to take to bring them up in healthy surroundings?

The Honourable Shri Mohan Lal Saksena: (a) Twenty five.

(b) Yes.

(c) As far as possible, all the orphans will be placed in foster Homes.

NATIONAL SALUTATION

602. *R. B. Lala Raj Kanwar: Will the Honourable the Prime Minister be pleased to state:

(a) whether Government have considered or are considering the question of adopting a National Salutation for the citizens of the Indian Dominion such as Jai Hind, Namaste, Namaskar, Ram Ram, Jai Ramji Ki, Adab Arz, etc., and if so with what result; and

(b) if not, whether Government propose to consider the advisability of taking steps to have a national form of salutation in consonance with the spirit of the times and the wishes of the people?

The Honourable Pandit Jawaharlal Nehru: (a) and (b). Government do not consider it necessary to issue any formal directions in this matter. There is a general and widespread tendency, which Government welcome, to use 'Jai Hind' as a national salutation. Any attempt to impose uniformity might well defeat its own purpose.

REPORTS OF WORKING OF MINISTRIES

603. *R. B. Lala Raj Kanwar: Will the Honourable the Prime Minister be pleased to state:

(a) whether Government intend to publish an annual synopsis or brief report of the work done by each Ministry of the Government of India; and

(b) if not, whether Government propose to consider the feasibility of issuing such a publication in future?

The Honourable Pandit Jawaharlal Nehru: (a) Certain departments of the Government of India issue annual reports but these generally deal with technical subjects. The Press Information Bureau brings out popular accounts of the work of various Ministries in "Indian Information" and these are supplied to newspapers also.

(b) It would probably be desirable to issue a consolidated report of the working of the Government of India every year as used to be done previously. Small separate reports of departments would be of interest to a limited number of persons only. For the present moment it is difficult to get adequate printing facilities for Government work. As soon as facilities are available, the proposal to issue a comprehensive annual report would be considered.

SAFETY OF INDIANS IN BURMA

604. *Prof. N. G. Ranga: (a) Will the Honourable the Prime Minister be pleased to state whether Government are aware of the threat to the life and property of our nationals in Burma?

(b) What action is being taken to provide special facilities for Indians to leave Burma?

(c) Is further emigration of Indians to Burma being stopped until the present crisis is over?

The Honourable Pandit Jawaharlal Nehru: (a) We are in continuous touch with the situation in Burma and, so far as I am aware, there is no threat to the life and property of our nationals as such. In fact, till now there has been no antiforeign feeling anywhere in Burma.

(b) There is no panic among the Indian community in Burma and the outward bound steamers from Burma are not being filled to capacity. There is no question, therefore, of providing any special facilities for evacuation at present.

(c) Emigration of unskilled labour to Burma is already prohibited. Emigration of skilled labour is also severely restricted and no further restrictions seem necessary.

LETTER FROM SIR GEORGE CUNNINGHAM TO GENERAL SIR ROB-LOCKHART *re* TRIBAL INVASION OF KASHMIR

605. *Pandit Hirday Nath Kunzru: (a) Will the Honourable the Prime Minister be pleased to state when and by whom the contents of the letter of Sir George Cunningham, Governor of the North West Frontier Province, to General Sir Rob-Lockhart regarding the tribal invasion of Kashmir were communicated to the Defence Committee?

(b) When did the Honourable the Prime Minister come to know of the contents of this letter?

(c) Were they communicated to the Honourable Shri Gopalaswamy Ayyangar, Leader of the Indian Delegation to the Security Council in connection with the reference of the Kashmir issue to the Security Council by the Government of India? If not, what was the reason for not doing so?

(d) When and by whom was the letter destroyed?

The Honourable Pandit Jawaharlal Nehru: (a) to (c). The facts relating to this letter have been stated in a Press Note dated 6th August. I am unable to fix the precise date when the contents of the letter were mentioned on the occasion of a Defence Committee meeting. This must have been sometime in the last week of October 1947, when the Committee was meeting daily to consider the invasion of the Kashmir Valley. At that time no particular importance was attached to the statement contained in the letter as Pakistan's complicity, and more specially that of the Frontier Province Government was taken for granted. Large numbers of letters bearing on this issue were being received by us.

I forgot about the letter subsequently and so did some other of my colleagues. Shri N. Gopalaswami Ayyangar's attention was therefore not specially drawn to this at the time of his visit to Lake Success. When in February a delegation from the Defence Ministry went to England, the Commander-in-Chief mentioned this letter again to various members of the delegation and to others there. He spoke about it to Sir Rob-Lockhart who told him that he was sorry he had destroyed the letter.

(d) I cannot say exactly when the letter was destroyed, but this must have been done soon after its receipt.

SALE OF INDIAN TEA IN HARD CURRENCY AREAS.

606. *Shri Upendranath Barman: (a) Will the Honourable Minister of Commerce be pleased to state what steps have been taken by Government to encourage and push the sale of Indian tea in the United States of America, Canada and other hard currency areas?

(b) Is it a fact that the Government of India or the Indian producers or Indian exporters of tea do not have any representation on the International Tea Market Expansion Board, London?

(c) If the answer to part (b) above be in the affirmative, what action have Government taken or propose to take to remedy the situation?

(d) Do the Government of India propose to consider larger participation in international fairs at Chicago or Toronto to assist in popularising and increasing the marketing of Indian tea in the United States of America and Canada?

(e) If so, have Government taken any steps to pursue the matter with the Indian Trade Commissioners in the countries concerned?

The Honourable Shri K. C. Neogy: (a) The International Tea Market Expansion Board carries on propaganda for promoting the sale of tea in general, including Indian tea, in U.S.A., Canada and other places. The Indian Trade Commissioners are also taking steps to push the sale of Indian tea in foreign countries by personal contacts with importers' organisations and participation in International fairs and exhibitions.

(b) Producers of tea in India are represented on the International Tea Market Expansion Board through the Indian Tea Market Expansion Board which nominates two Directors and two alternate Directors on the International Board.

(c) Government are not satisfied with the present arrangements under which so far no Indian has been nominated as Director or alternate Director to the International Tea Market Expansion Board. They propose therefore to take up the matter with the International Board after the contemplated reorganisation of the Indian Tea Market Expansion Board has been completed.

(d) and (e). Government have already considered the question and have asked their Trade Commissioners abroad to make suitable arrangements for the display of Indian tea in all International Exhibitions and Fairs held in countries within their jurisdiction.

SALE OF INDIAN TEA IN CERTAIN ASIAN COUNTRIES.

607. *Shri Upendranath Barman: (a) Will the Honourable Minister of Commerce be pleased to state what action has been taken by the Government of India for increasing the sale of tea in the Middle East, Far East and South East Asian countries?

(b) Is it a fact that tea is sold at very high prices in Iran, Iraq and some of the Arab Countries in the Middle East? If so, do Government propose entering into State Trading with those countries?

The Honourable Shri K. C. Neogy: (a) I would invite the honourable member's attention to the reply just given by me to part (a) of Starred Question No. 606.

(b) Government have no definite information in the matter but are making enquiries The latter half of the question does not, therefore, arise at present.

COUREMENT AND SUPPLY OF INDIAN TEA TO UNITED KINGDOM AND U.S.S.R.

608. *Shri Upendranath Barman: (a) Will the Honourable Minister of Commerce be pleased to state the machinery which procures and supplies Indian tea to the Ministry of Food in the United Kingdom and to the Government of the U. S. S. R.?

(b) Is it a fact that an officer under the pay of the Ministry of Food (United Kingdom) named Mr. L. B. Green, who is stationed in Calcutta undertakes the procurement of Indian tea under contract for His Majesty's Government?

(c) Does Mr. Green also work on behalf of the Government of India?

(d) If so, what control and authority do the Government of India exercise over that officer in his working as the agent of His Majesty's Government in India and in his other duties which are discharged as an officer of the Government of India?

(e) Do Government propose to consider appointing a wholetime Indian officer under the absolute control of the Government of India to function in India to do the aforesaid duties?

The Honourable Shri K. C. Neogy: (a) The Tea Controller for India, acting as the Agent of the Ministry of Food in the United Kingdom, procures tea on contracts from the gardens for supply to the United Kingdom.

As regards supplies of tea to the USSR, the Tea Controller for India has been entrusted with the task of procuring such teas on behalf of the Government of India, partly on contract and partly by purchase at auctions.

(b) to (e). Mr. L. B. Green, the Tea Controller of India, is an officer of the Government of India and is paid from Indian revenues, though a part of his pay is ultimately recovered from the British Government for work done by him on behalf of that Government. The question of appointing an Indian to the post will be considered when the term of the present incumbent expires, though it has to be borne in mind that as the major portion of the work performed by this officer is on behalf of the United Kingdom. His Majesty's Government would naturally like to have a voice in the selection of his successor for so long as the existing arrangements continue.

Tea Market Expansion Board

609. *Shri Upendranath Barman: (a) Will the Honourable Minister of Commerce be pleased to state the number of employees in the Tea Market Expansion Board who are Indians and non-Indians, and the scales of salary and emoluments of the European Members of the Board and the Indian officers and subordinates therein?

(b) Do Government exercise any control and supervision over the employment of any non-Indian in the Tea Market Expansion Board?

(c) Are Government aware of the Leave Rules, Provident Fund Benefits and Annuities allowed to the employees of the Board?

(d) Are Government aware that the employees of the Board are not allowed any leave even on such occasions as marriage, Sradh ceremony etc.?

(e) Are Government aware that the field members of the Board are allowed leave only during the 'Ramzan' month when field works of the Board are said to be suspended?

(f) If so, what action have Government taken to remedy the situation?

(g) Do Government intend to bring in legislation to take adequate powers to remedy the situation?

The Honourable Shri K. C. Neogy: (a) There are 1,158 Indians and 7 non-Indians in the employ of the Indian Tea Market Expansion Board at present. The members of the Board do not receive any emoluments except travelling allowances for attending meetings of the Board. A statement showing the emoluments drawn by the European and Indian employees of the Board is laid on the table of the House.

(b) No, Sir.

(c) Government are generally aware of the terms and conditions applicable to employees of the Board. For the honourable member's information, I place on the table of the House a statement showing the Provident Fund benefits, etc. enjoyed by the members of this organisation.

(d) Government have been informed by the Board that leave for marriage, sradh and such other ceremonies are granted to its employees subject to availability of leave and exigencies of work.

(e) The Board has informed Government that this practice obtained only in East Bengal a few years ago but was discontinued with the termination of the field campaign in that region in 1946.

(f) and (g). Government have not been entirely satisfied with the manner in which the administration of the Board has been conducted in the past and they propose therefore to put matters on a sound footing by the introduction of the necessary legislation.

Statement I

Showing Scales of pay, Emoluments etc, drawn by Employees of the Board.

Contract Appointment

Grade.	Number Employed.	Scale of Basic Salary (No pension is payable to any member of the Board's staff.)	Dearness, Rent and Compensatory Allowances.	Entertainment Allowance	Motor Car Allowance.	Outstation or Travelling Allowance.	Transportation	Lagnage and Joining and/or Disturbance Allowance.	
		Rs.		Rs.	Rs.				
Commissioner (European). Contract expires September 30th, 1950.	1	3,500	As per terms of the Pay Commission according to D.O. towns in which serving, except that no rent allowance is paid where free accommodation is provided; this concession for Income-tax purposes is adjusted by 10 per cent of salary or half the rent which ever is less being added to total income.	250	300	Rs. 20 per night spent out of Hqrs on Board's work.	First class rail or steamer.		Nil—not subject to transfer.
Assistant Commissioner (European) (Campaigns)-Contract expires March 31st, 1950.	1	2,000—250—2,500.	Do.	Nil.	150	Do.	Do.	Do.	Acts. allowance of Rs. 250 p. m. when acting for Commissioner.
Assistant Commissioner (Catering) (European). Contract expires March 31st, 1950.	1	1,600—100—1,800.	Do.	Nil.	150	Do.	Do.	Do.	Do.
Publicity Officer (Indian)-Contract expires March 31st, 1949.	1	850—50—950	Do.	Nil.	150	(1) Calcutta Bombay Rs. 20 per night (2) First class hotel towns where first class Retiring Rooms are available Rs. 15 per night (3) All other towns Rs. 12/8/- per night. *N. B.*—(1) and (2) to be supported by vouchers.	Do.	Do.	

Statement II

Showing Grades, Pay and Allowances of Staff Employed by the Indian Tea Market Expansion Board from the Grade of Superintendents downwards.

Index	Grade	Number Employed	Scale of Basic Salary	Dearness, Rent and Compensatory Allowances.	Outstation or Travelling Allowance when out of H.Q.	Transportation.	Luggage Allowance.	Joining Disturbance Allowance.	
							On permanent transfer only.		
(A)	Superintendent (8 Europeans) (10 Indians).	8 Europeans 10 Indians. 18	55 —660—50— 1,500.	As per terms of the Pay Commission according to D. O. towns in which serving, except that no rent allowance is paid where free accommodation is provided; this concession for income tax purposes is adjusted by 10 per cent of salary or ½ the rent whichever is less being added to total income.	(1) Calcutta, Bombay 20/- per night. (2) First class hotel towns where first class Retiring Rooms are available 15/- per night. (3) All other towns 12/8/- per night. *N. B.*—(1) and (2) to be supported by vouchers	1st class rail or steamer, or in the Board's inspection car.	5 mds. by passenger or mail train less free allowance on ticket, or 8 mds. by goods train.	The equivalent of 14 days outstation allowance according to class of town in 1, 2, or 3 to which posted.	
(B)	Assistant Superintendent (1 European) (2 Anglo-Indians) (8 Indians).	11	375—25—475.	As per terms of the Pay Commission according to town in which working.	Rs. 9/- per night when out of H.Q.	As for Superintendents.	As for Superintendents.	The equivalent of 14 days outstation allowance.	Acting allowance if acting in the higher grade of Superintendent Rs. 75 per month.
(C)	Inspectors (1 Anglo-Indian) (22 Indians)	23	225—15—345.	Do.	Rs. 7/- per night when out of H.Q.	2nd class rail or steamer, or in the Board's inspection car.	Do.	Do.	Acting allowance if acting in the grade of Assistant Superintendent Rs. 30/- p.m.
(D)	Sub-Inspectors (All Indian).	186	100—10—200.	Do.	Rs. 3/8/- per night when out of H.Q.	2nd class rail or steamer fare.	Do.	Do.	Acting allowance if acting in the grade of Inspector Rs. 25 p.m.
		Grades covered by indices A, B, C and D enjoy the concession of family transfer expenses up to a maximum of 2 full fares in the class of travel sanctioned for their grade, plus incidental charges, *i.e.*, coolie hire etc.							
(E)	Demonstrators (All Indian) (Provincially employed).	491	40—5—75	As per terms of the Pay Commission according to town in which working.	Rs. 1/8/- per night when out of H.Q.	3rd class travel	Nil.	The equivalent of 14 days outstation allowance.	Acting allowance if acting in the grade of Sub-Inspector Rs. 25/ p.m.
(F)	Attenders (All Indian) (Locally employed).	279	20/- (Flat rate).	As for demonstrators	Re. 1/- per night when out of HQ.	3rd class if moved	Nil.	The equivalent of 14 days outstation allowance if moved.	Acting allowance if acting in the grade of Demonstrator Rs. 8 per working day whilst acting.

Index	Grade	Number Employed	Scale of Basic Salary	Dearness, Rent and Compensatory Allowances	Outstation or Travelling Allowance when out of H. Q.	Transportation	Luggage Allowance	Joining Disturbance Allowance
							On permanent transfer only.	
(G)	Head Office Staff Senior Clerks (All Indians).	8	160—10—250	As per the terms of the Pay Commission for Calcutta.	Not applicable	Not applicable	Not applicable	Not applicable.
	(c) Junior Clerks	34	70—5—150	Do.	Do.	Do.	Do.	Do.
	(d) Typist (All Indian).	2						
	Senior Stenographers (Anglo-Indians.)	2	250—20—400	Do.	Do.	Do.	Do.	Do.
	Junior Stenographers (Anglo-Indian)	3	125—15—200	Do.	Do.	Do.	Do.	Do.
	Drivers (All Indian)	3	40—5—60	Do.	Do.	Do.	Do.	Do.
	(f) Durwans Duftries and Menials.	20	As per monthly service rate for Calcutta with minimum of Rs. 25/- per month.	Do.	Do.	Do.	Do.	Do.
	(g) Carpenters (All Indian)	1						
(H)	*Divisional Office Staff.*—							
	Head Clerks	10	As per details shown against item (D) for the Sub-Inspector grade.					
	Cheque Operators	2						
	Junior Clerks	25	As per monthly service rates in the town in which D. O. is situated.	As per the terms of the Pay Commission for the town in which D.O. is situated.		Not Applicable.		
	Drivers	15						
	Menials (All Indians)	28						

Statement III

showing Leave Rules, Provident Fund, etc., allowed to the employees of the Board

APPENDIX 'A'

RULES GOVERNING LEAVE FOR SUPERINTENDENTS

1. *Furlough.*—Leave for all employees in the grade of Superintendent will be at the rate of one month for each complete year's service, such to be cumulative up to four months on full pay.

Superintendents with a reasonable claim to domicile in the British Isles shall, after completion of four years' service and every fourth year thereafter in the event of their declaring their intention of proceeding to Europe, be entitled to add to their accumulated leave a further two months leave on full pay to cover the period of the journey and receive the cash equivalent of one cabin-class return ticket from Calcutta to London by sea.

Superintendents having a domicile in India will, after the completion of four years' service and once every four years thereafter, be entitled to one 1st Class return rail or steamer ticket from the station in which they are located to any other station in India to which they may declare their intention of their proceeding on leave.

2. *Sick Leave.*—This will be limited to 14 days a year with pay but exceptional cases will be dealt with by the Commissioner according to the merits of the case.

3. *Public Holidays.*—These will be limited from 12 to 13 days per year and will be granted on a Provincial basis according to their importance in the Province in which they are taken.

APPENDIX 'B'

RULES GOVERNING LEAVE FOR ASSISTANTS IN THE FIELD

1. *Annual Leave—Urban and Catering Sections.*—Special conditions render it necessary to lay down special leave rules for such divisions and the following rules will be observed.

Assistants will be granted one day's clear holiday per week. Generally speaking, this holiday will be on a Sunday to compensate assistants for working on the usual Saturday afternoon holiday. Annual leave will be granted at the rate of 28 days per annum for each complete year of service. This leave will be taken by entire parties during the months of May to September or when work best permits. Those assistants who have a full year's service to their credit when the party goes on leave, will be granted 28 days leave on full pay. Those assistants who have not completed a year's service will be granted leave on full pay for the actual period earned, calculated at the rate of 28 days per annum, and the balance of leave will be on half pay.

2. *Sick Leave.*—Consideration will be given to genuine cases of sickness, certified by a recognised doctor, which prevents an employee from carrying out his normal duties, or in cases where leave is required in order to recover from the effects of illness.

Applications for sick leave will be dealt with in the following manner:

When an employee reports sick, his case must be enquired into at once by the Superintendent or by the Assistant's immediate superior who, if satisfied that the assistant is actually sick and in the opinion of a qualified doctor, unable to carry out his duties, may put him on sick leave. He will report the matter to Divisional Office where it will be recorded in the weekly staff report.

The decision as to whether the leave which is necessary on account of illness or to recover from the effects thereof will be with or without pay will rest solely with the Commissioner whose decision will be based on the Superintendent's recommendation. Sick leave with pay will normally be limited to 14 days per year but exceptional cases will be dealt with by the Commissioner on their merits.

3. *Public Holidays.*—These will be limited from 12 to 13 days per year and will be granted on a Provincial basis according to their importance in the Province in which they are taken.

APPENDIX 'C'

RULES GOVERNING LEAVE FOR HEAD OFFICE AND DIVISIONAL OFFICE WORKERS

1. *Annual Leave.*—All assistants, except Lady Stenographers, employed in Head Office or Divisional Offices will be granted leave at the rate of 14 days for each complete year of service. Annual leave will be taken at the time the assistant can best be spared from his duties. Any leave granted to assistants for reasons other than sickness must be deducted from the period of annual leave. Annual leave cannot be accumulated.

The period of annual leave for Lady Stenographers employed in Head Office will be 28 days instead of the 14 days referred to above.

2. *Sick Leave.*—Consideration will be given to genuine cases of sickness, certified by a recognised doctor, which prevents an employee from carrying out his normal duties, or in cases where leave is required in order to recover from the effects of illness.

Applications for sick leave will be dealt with in the following manner:

When an employee reports sick, his case must be enquired into at once by the Superintendent or by the assistant's immediate superior who, if satisfied that the assistant is actually sick and, in the opinion of a qualified doctor, unable to carry out his duties, may put him on sick leave. He will report the matter to Divisional Office where it will be recorded in the weekly staff report.

The decision as to whether the leave which is necessary on account of illness or to recover from the effects thereof will be with or without pay will rest solely with the Commissioner whose decision will be based on the Superintendent's recommendation. Sick leave with pay will normally be limited to 14 days per year but exceptional cases will be dealt with by the Commissioner on their merits.

5. *Public Holidays.*—The number of holidays reserved for Divisional Office staff is limited to 13 days and these will be granted on a Provincial basis according to their importance within the Province in which they are taken.

The number of Public Holidays reserved for staff working in Head Office is regulated by those sanctioned by the local Government and the Bengal Chamber of Commerce, and these will be declared from time to time, as they occur, by the Commissioner.

PROVIDENT FUND BENEFITS FOR THE EMPLOYEES OF THE BOARD

The Board contribute 10 per cent. of salary to its employees' Provident Fund. Employees must contribute likewise and may also contribute an additional 10 per cent. without any further contribution from the Board. The Fund has 730 members of whom 95 contribute this extra 10 per cent.

RETIRING BONUS

The Board gives retiring bonus of six months' pay to those who retired after long and faithful service.

DIVISION OF PROVINCES ON LINGUISTIC BASIS

610. *Shri Biswanath Das: Will the Honourable the Prime Minister be pleased to state:

(a) whether Government propose to take up the question of linguistic division of provinces in the immediate future either of all the concerned provinces or of a few selected ones;

(b) whether Government are aware of the appointment and functioning of a Committee appointed in this regard by the Honourable President of the Constituent Assembly;

(c) whether they were consulted before the appointment of the said Committee; and

(d) whether Government propose to place the said correspondence on this subject on the table of the House?

The Honourable Pandit Jawaharlal Nehru: (a) to (d). I would refer the honourable member to the statement I made in this House on the 27th November, 1947, in reply to a short notice question by Prof. N. G. Ranga. I explained in that statement that while the Government accepted the principle underlying the demand for linguistic provinces, in giving effect to it, however, many other considerations have to be borne in mind. These considerations have assumed even greater importance and urgency now and preclude any immediate diversion of the energies of the Government to this particular problem. Nor can the Government take this up immediately in view of the action already taken in this connection by the Constituent Assembly. I told the House in November last that the final determination in case of new provinces appropriately rests with the Constituent Assembly and that the Government themselves proposed that the Constituent Assembly should take some

steps in the direction of making some preliminary enquiries in this connection. No formal correspondence with the Government took place about the appointment of the Commission, but the President of the Constituent Assembly was good enough to consult me and some other members of the Government from time to time. The Government, as I have already indicated in my statement, have welcomed the appointment of this Commission. Now that the Commission is engaged on its work the Government would prefer to wait for its report and advice before taking further steps in the matter.

IMPORT OF TRACTORS AND BULLDOZERS AND THEIR DISTRIBUTION IN PROVINCES

611. *Shri O. V. Alagesan: (a) Will the Honourable Minister of Commerce be pleased to state how many new tractors and bulldozers were imported during the current year and how they were distributed province-wise?

(b) Were the full requirements of the provinces met?

(c) Is there any proposal before Government for the manufacture of tractors, bulldozers etc., in our own country?

The Honourable Shri K. C. Neogy: (a) 868 tractors were imported on Government account during 1948. I lay on the table a statement showing the province-wise distribution of these tractors. Figures of total imports of tractors and bulldozers in the current year are being collected, and will be placed on the table.

(b) No Sir, the reason being that tractors have not been received according to schedule from the manufacturing countries owing to the tight supply position.

(c) Yes Sir. The manufacture of tractors is under the active consideration of the Government. The question of the manufacture of bulldozers will be taken up in due course.

STATEMENT

[showing the Province-wise distribution of Tractors during the year 1948.

Bombay	12
Rampur	1
U.P.	73
Bihar	4
Assam	2
Bengal	2
East Punjab	4
C.P.	14
Mysore	2
Number of tractors supplied to the Central Tractor Organisation of the Ministry of Agriculture for the mechanical cultivation operations in the East Punjab, U.P. and Matsya Union	244
Total	868

SALARY AND OTHER EMOLUMENTS OF GOVERNOR GENERAL

†612. *Shri H. V. Kamath: Will the Honourable the Prime Minister be pleased to state:

(a) the present salary and other emoluments of the Governor-General of India;

(b) the total cost per mensem of the Governor-General's establishment: and

(c) whether any reduction is contemplated in the near future?

†This question was taken up after Question No. 586 and was answered orally vide Honourable the Speaker's remarks on page 622.—*Ed. of D.*

The Honourable Pandit Jawaharlal Nehru: (a) and (b),

(i)	Salary	Rs.20,000 p. m.
(ii)	Sumptuary Allowance	Rs. 3,750 p. m.
(iii)	Expenditure from Contract Allowance.	Rs.29,166 p. m.
(iv)	State Conveyance and maintenance of motor cars.	Rs. 5,250 p. m
(v)	Cost of establishment.	Rs.50,500 p. m.

For further details, the attention of the honourable member is invited to the Third Schedule of the Government of India Act, 1935 as adapted, and to the Estimate of the Amount required in the year ending 31st March 1949 to pay the salaries and other expenses of the Governor-General, his staff and household, printed at pages 295-296 of the Demands for Grants for 1948-49.

(c) Some economies have already been effected and further economies are under consideration.

Shri H. V. Kamath: Now that India has got rid of the last British Governor-General, won't it be in accord with the spirit of the times. . . . .

Mr. Speaker: Order, order. He can put a question only for information.

Shri H. V. Kamath: I am putting a question. Does not the Government propose to enforce a drastic cut in the salary and emoluments of the Governor General in the same way as has been done for the Ministers of Government?

The Honourable Pandit Jawaharlal Nehru: It is the intention of the Government to reduce all unnecessary expenditure. What exactly is unnecessary expenditure, requires careful consideration. There is no comparison between the Governor General and the Ministers in this matter. The Governor General is the head of the State, representative of the State and he has to keep up a certain dignity, to provide for the guests who come, to hold big official entertainments and the like. Therefore, while it is desirable of course to reduce expenditure wherever possible, it is also desirable that the dignity of the State should not suffer.

Shri H. V. Kamath: Is it not a fact that the Congress leaders including Mahatma Gandhi condemned till only two years ago. . . . .

Mr. Speaker: The question will not be permissible. This is entering into an argument.

Shri H. V. Kamath: Is it a fact that Lord Mountbatten before he left our shores consumed all the sumptuary allowances that had been allotted to him for this financial year, so much so that for the new Governor General, a fresh allotment or appropriation had to be made in that respect?

The Honourable Pandit Jawaharlal Nehru: In regard to certain matters, that is so. Lord Mountbatten carried out very extensive tours during the last four months or so of his tenure of office, quite unusually extensive, all over India, and they absorbed most of the money provided for the purpose. The new Governor General, when he started, had very little in the way of sumptuary allowance left and a fresh grant had to be made for that purpose.

Shri H. V. Kamath: Is there any provision, in the Government of India Act for this contingency, when the outgoing Governor General consumes all the allowances allotted to him for the whole year?

The Honourable Pandit Jawaharlal Nehru: It has been not an infrequent practice for additional grants to be made when such a contingency arose.

Shri Mahavir Tyagi: To what extent has reduction been made in the pay and allowances of the Governor General since 15th August 1947?

The Honourable Pandit Jawaharlal Nehru: I do not know if the honourable member's question is a rhetorical question. I have just given the facts.

Shri Mahavir Tyagi: I want facts. May I know to what extent there has been a reduction in the pay and allowances?

The Honourable Pandit Jawaharlal Nehru: I have given the exact facts; they are given in print. There were certain, what I would call, relatively minor reductions in the staff. There is no reduction in the actual pay of the Governor General or the major allowances; the staff has been partly reduced, and the matter is, of course, being considered carefully as to what other reductions can be made. I may mention that the question cannot be considered just what amount can be reduced. You have to think in terms of how this enormous State structure, the Government House is to be run. It is not a simple matter. You cannot allow such an establiabment to be unused. Either it should be used or some other kind of establiahment should be created. It is an exceedingly expensive structure. The Governor General's salary and allowances seem to be big. But, if you will take the trouble to look at the House and the establishment and the 5,000 people who live in the Estate in various forms of service, the money spent is not much. The question is not one of reducing the salary or the strength of the staff, but of considering what state the Governor-General and others should maintain in the future. It is a complicated question. Then, of course, the salary and allowances should he fitted in with this. You cannot keep the same set up and reduce the salary. That would mean a third rate set up which is not good from any point of view. The larger question will certainly be considered, but always keeping in view the dignity of the State.

Shri H. V. Kamath: Am I to understand that all the high and noble ideals of Mahatma Gandhi and the Congress have been put in cold storage for the present?

Mr. Speaker: Order, order.

Prof. N. G. Ranga: In considering the whole question of proper set up, will the Government also keep in mind the open letter written by Mahatma Gandhi in 1932 to Lord Irwin in regard to the salary of the Governor General?

Mr. Speaker: Order, order.

Shri B. Das: May I know whether the Governor General was requested to accept a lower salary, from Rs. 20,900 to Rs. 10,000 as was reported in the press?

The Honourable Pandit Jawaharlal Nehru: There is no question of request. Surely, this House is acquainted with the present holder of the office of Governor General. There is no man in India who is simpler in his life and habits. Even now, in the Government House, his habits remain the same. I may say for the information of the House one rather important fact. Prior to 15th August, that is round about July of last year, Lord Mountbatten, the then Viceroy, wrote to me saying that after the 15th of August it was his desire and the desire of Lady Mountbatten that there should he some simplification and that they should leave the Government House and move into a smaller house. We considered this matter in the Cabinet and we came to the conclusion that whatever the future decision might be about the Government House, any change at that time would be highly inconvenient to us, to them and in effect would

not bring in any economy. The Governor General's establishment is a big establishment and it would mean finding a number of smaller or moderate sized houses and spending a large amount of money, in the face of acute housing shortage, etc., and then deciding as to how to use the Government House. In fact, it would cost us some thing more and a great deal of inconvenience to everybody. Therefore, we said that for the few months that you are going to be here, we would like you to continue in this House, and afterwards it will be for the Government to consider as to what use the Government House could be put. We did consider the matter again. We have again come to the conclusion, a provisional conclusion, that the Governor General should remain in the Government House. There is no other convenient place to live in and to carry out his duties. But, the Government House being such a large building, parts of it are going to be used for other purposes.

Shri K. Santhanam: On a point of order, Sir, in view of the fact that the Governor General's salary and allowances are regulated by the statute, *viz.* by a schedule to the constitution, is it permissible to ask questions about them in the House?

Mr. Speaker: The only point is that these are questions for information and the matter cannot be discussed in the House. Whatever information is supplied is to be accepted; whether the particular way in which the expenditure is incurred or the amount thereof is to your liking or not, there cannot be any discussion. That is why I first drew the attention of the honourable member to the provisions of sections 33 and 34 of the Government of India Act. I do feel that there is a tendency to discuss this question. Certain questions are put in that form and certain opinions are expressed. My difficulty is that, unless the honourable member puts the question, I am not in a position to know what the question is going to be: and by the time I know the question has been put. That is the difficulty I have been feeling. I think the honourable members have had sufficient information on this question and we may better go to the next question.

Shri K. Santhanam: My point of order is whether, when a particular fact is contained in the actual statute it is open to a member to put questions on that fact.

Mr. Speaker: I do not find the details mentioned in the statute. Schedule 3 mentions the salary, but as regards other points, there is no specific mention; it refers to the provision that has been made already at the time the Act came into force.

Shri K. Santhanam: May I point out that the other facts are there in the budget?

Mr. Speaker: Yes, I agree they are in the budget.

Shri Deshbandu Gupta: Sir, may I ask a question purely on a point of information?

Mr. Speaker: I do not think any further questions need be put now.

Prof. Shibban Lal Saksena: Sir, is this sovereign House debarred from putting any question relating to a subject which is discussed in some statute?

Mr. Speaker: I am afraid I am not quite clear. This House being sovereign, is entitled to put any questions it likes. But the honourable member's point was that questions should not be put on matters which are the subject matter of some statutory provision or of figures which are contained in the budgets or any other reports of Government, members should ordinarily take the trouble to find them out from the records rather than through questions. My reply to that was that all the necessary details may perhaps not be there; that is why I have permitted these questions. Next question.

SELECTION FOR APPOINTMENT AS INFORMATION OFFICERS (EXTERNAL)

618. *Seth Govind Das: Will the Honourable the Prime Minister be pleased to state:

(a) whether Government are aware that the Federal Public Service Commission has interviewed candidates for appointment as Information Officers (External) during March 1948;

(b) if so, how many candidates were recommended for those posts by the Federal Public Service Commission;

(c) how many of the recommended candidates were taken by the department; and

(d) whether it is a fact that the selection for Information Officers (External) is made by the *ad-hoc* Committee of the Ministry of External Affairs and if so, why?

The Honourable Pandit Jawaharlal Nehru: (a) Yes, candidates were interviewed for the posts of Information Officers, External as well as Internal. Until June last both belonged to the same cadre.

(b) 33 candidates were recommended for posts of Information Officers, Internal and External. No candidates were earmarked for either branch.

(c) Of the 33 candidates recommended by the Federal Public Service Commission, 21, who had already been serving as Information Officers, were accepted by the Information and Broadcasting Ministry and the External Affairs and Commonwealth Relations Ministry. Of the 12 candidates from outside, External Affairs and Commonwealth Relations Ministry considered one suitable for External Publicity and the other names are being considered by the Information and Broadcasting Ministry for appointment as Information Officers on the Internal side.

(d) Yes, in order to meet immediate requirements pending recruitment through the Federal Public Service Commission.

UNSTARRED QUESTION AND ANSWER

ALL INDIA LABOUR ORGANISATIONS

4. Seth Govind Das: Will the Honourable Minister of Labour be pleased to lay on the table of the House a statement showing the relative strength of various All-India Labour Organisations together with the membership, affiliated trade Unions, income and the party affiliations of each?

The Honourable Shri Jagjivan Ram: There are four All-India organisations of workers, namely, the Indian National Trade Union Congress, the All-India Trade Union Congress, the Indian Federation of Labour and the Hind Mazdoor Panchayat.

Information regarding the relative strength of the Indian National Trade Union Congress and the All-India Trade Union Congress is being published in a report, a copy of which will be forwarded to the honourable member as soon as it is available.

As regards the Indian Federation of Labour, the latest available information relates to the month of January 1947 and is now out of date. No information is available about the Hind Mazdoor Panchayat which was formed only recently.

As regards the party affiliations of the All-India organisations, I would leave it to the honourable member to draw his own conclusions from the speeches delivered by the labour leaders belonging to these organisations.

The Honourable Pandit Jawaharlal Nehru: Sir, with your leave I wish to make a very brief statement to correct a certain answer I gave to a supplementary question a few days ago, which might give rise to a possible misapprehension.

On the 20th August, Prof. Ranga put a supplementary question to me in pursuance of Question 348, regarding the future of French Settlements in India. Prof. Ranga asked whether there would be any observers on behalf of the Government of India to see how the referendum took place. I replied in the negative. I then had in mind the Municipal Elections in the French Settlements. There will be no observers on behalf of the Government of India at the Municipal elections. It is for these municipal councils to settle the details about the referendum. At the referendum itself we propose to appoint observers on behalf of the Government of India. We have told the French Ambassador that the referendum should be conducted under the observation of the Indian and French Governments and that these observers should be entitled to employ as many persons, and station them in as many places, as they might consider necessary for effectively observing the referendum. The French Government have replied that the question of the control of the referendum is under examination and will be the subject of a further communication.

Monday
30th August, 1948

CONSTITUENT ASSEMBLY OF INDIA

(LEGISLATIVE) DEBATES

(PART II—PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS)

Official Report

Volume VI, 1948

(9th August to 31st August, 1948)

THIRD SESSION

OF THE

CONSTITUENT ASSEMBLY OF INDIA
(LEGISLATIVE)

1948

12-12-94
Preservation Unit
5-5-89
Fumigated
On 12-8-83
Parliament Library

CONTENTS

Volume VI,—9th August to 31st August, 1948

	Pages
MONDAY, 9TH AUGUST, 1948—	
Death of Mr. Damber Singh Gurung	1
Governor-General's Assent to Bills—	1-2
Papers laid on the Table—	
Report of India Delegation to Fifth Session of Economic and Social Council of United Nations	2
Summary of Work done by Geological Survey of India during past Five years	2
White Paper on Sterling Balances Negotiations	2
Allotment of a day for discussion on Hyderabad and Kashmir	2
Election to Standing Committe for Ministry of External Affairs and Commonwealth Relations	2,18
Diplomatic and Consular Officers (Oaths and Fees) Bill—Introduced	4
Indian Merchant Shipping (Amendment) Bill—Introduced	4
Census Bill—Introduced	4
Continuance of Legal Proceedings Bill—Introduced	4
Indian Matrimonial Causes (War Marriages) Bill—Introduced	4
Indian Registration (Amendment) Bill—Introduced	5
Displaced Persons (Institution of Suits) Bill—Introduced	5
Taxation on Income (Investigation Commission) (Second Amendment) Bill—Introduced	5
Reserve Bank (Transfer to Public Ownership) Bill—Introduced	5
Gandhi National Memorial Fund Donations (Companies) Bill—Introduced	5
Estate Duty Bill—	
Presentation of Preliminary Report of Select Committee	6
Extension of time for presentation of Report of Select Committee	6-18
Declaration by Members	18
Factories Bill—Presentation of Report of Select Committee	19
Banking Companies Bill—Referred to Select Committee	19-30
Electricity (Supply) Bill—Discussion on motion to consider as reported by Select Committee—Not concluded	30-46
TUESDAY, 10TH AUGUST, 1948—	
White paper on Hyderabad—Laid on the Table	47-48
Elections to—	
Central Advisory Committee of National Cadet Corps	48
Central Committee of Tuberculosis Association of India	49
Electricity (Supply) Bill—Consideration of Clauses—Not concluded	49-92
Appendix	92-164
WEDNESDAY, 11TH AUGUST, 1948—	
Resolution re—	
Abolition of entries of caste and religion etc., from Government registers, forms and records—Withdrawn	165-66
Measures to check rising prices of necessary commodities—Discussion not concluded.	166-216
THURSDAY, 12TH AUGUST, 1948—	
Elections to—	
Employees' State Insurance Corporation	217
Committee on Public Accounts	217
Standing Finance Committee	218
Standing Committee for External Affairs and Commonwealth Relations	218
Hindu Code—Presentation of Report of Select Committee	218-19
Gandhi National Memorial Fund Donations (Companies) Bill—Passed	219-22
Electricity (Supply) Bill—Consideration of clauses—Not concluded	222-31
Demand for Supplementary Grants 1948-49—Discussion not concluded.	231-89
Demand No. 99-A-Capital Outlay on Sterling Pensions—Discussion not concluded	231-89
—Failure of Government to secure Protection against scaling down of Sterling Balances—Discussion not concluded.	245-89
Demand No. 101—Defence Capital Outlay—Discussion not concluded.	289-89
Propriety of Payment and Defence Stores Policy of Government Discussion not concluded.	345-89

FRIDAY, 13TH AUGUST, 1948— Pages

Papers laid on the Table—
Declarations of Exemptions under the Registration of Foreigners Act
Elections to—
Central Advisory Committee of National Cadet Corps
Central Committee of Tuberculosis Association of India
Mines and Minerals (Regulation and Development) Bill—Introduced
Income Tax and Business Profits Tax (Amendment) Bill—Presentation of Report of Select Committee
Demands for Supplementary Grants—1948-49—*Contd.*
Demand No. 99-A—Capital Outlay on Sterling Pensions—*Contd.*
Failure of Government to secure Protection against trading down of Sterling Balances—*Contd.*
Demand No. 101—Defence Capital Outlay—*Contd.*
Propriety of Payment and Defence Stores Policy of Government—*Contd.*

MONDAY, 16TH AUGUST, 1948—

Resolutions re Indian Parliamentary Group of Inter-Parliamentary Union—Adopted 311-17
Durgah Khawaja Saheb (Amendment) Bill—Introduced 318
Indian Army (Amendment) Bill—Introduced 318
Coal Mines Provident Fund and Bonus Scheme Bill—Introduced 318
Indian Telegraph (Amendment) Bill—Introduced 318
Census of Refugees Bill—Introduced 318
Electricity (Supply) Bill—Passed as amended 319-42
Mines and Minerals (Regulation and Development) Bill—Referred to Select Committee 342-56

TUESDAY, 17TH AUGUST, 1948—

Statement by Shri R. K. Shanmukham Chetty on his Resignation as Minister for Finance 357-60
Elections to—
Employees' State Insurance Corporation 360
Committee on Public Accounts 360
Standing Finance Committee 360
Central Silk Board Bill—Referred to Select Committee 360-69
Bombay, Calcutta and Madras Port Trusts (Constitution) (Amendment) Bill—Passed as amended 369-92
Indian Railways (Second Amendment) Bill—Discussion on motion to consider and to refer to Select Committee—Not concluded 392-99

WEDNESDAY, 18TH AUGUST, 1948—

Banking Companies Bill—Extension of time for Presentation of Report of Select Committee 401-03
Cantonments (Amendment) Bill—Introduced 403
Indian Railways (Second Amendment) Bill—Referred to Select Committee 403-13
Continuance of Legal Proceeding Bill—Passed 413-16
Displaced Persons (Institution of Suits) Bill—Consideration of clauses—Not concluded 417-24
Indian Registration (Amendment) Bill—Passed 424-29
Indian Matrimonial Cause (War Marriages) Bill—Passed 429-29
Census Bill—Passed as amended 429-43

FRIDAY, 20TH AUGUST, 1948—

Imperial Library (Change of Name) Bill—Introduced 443-44
Indian Cotton Cess (Amendment) Bill—Introduced 444
Displaced Persons (Institution of Suits) Bill—Passed as amended 444-55
Diplomatic and Consular Officers (Oath and Fees) Bill—Passed 455-59
Indian Merchant Shipping (Amendment) Bill—Passed 459-60
Durgah Khawaja Saheb (Amendment) Bill—Passed 460-62
Indian Army (Amendment) Bill—Passed as amended 462-72
Indian Telegraph (Amendment) Bill—Passed 472-73
Coal Mines Provident Fund and Bonus Schemes Bill—Passed 473-86
Factories Bill—Discussion on motion to consider—Not concluded 486-88

MONDAY, 23RD AUGUST, 1948— Pages

Papers laid on the Table—
Authenticated Schedule of Authorised Supplementary Expenditure for 1948-49—
Other than Railways 489
Bombay Public Security Measures (Delhi Amendment) Bill—Introduced . . 490
Territorial Army Bill—Introduced 490
Payment of Taxes (Transfer of Property) Bill—Introduced 490
Factories Bill—Motion to consider—Adopted 490-532

TUESDAY, 24TH AUGUST, 1948—

Factories Bill—Consideration of clauses—Not concluded 533-80
Indian Railways (Second Amendment) Bill—Presentation of Report of Select Committee 580

WEDNESDAY, 25TH AUGUST, 1948—

Panel of Chairmen 581
Committee on Petitions 581
Mines and Minerals (Regulation and Development) Bill—Presentation of Report of Select Committee 581
Banking Companies Bill—Extension of time for presentation of Report of Select Committee 581-82
Child Marriage Restraint (Amendment) Bill—(Amendment of Sections 3, 4, 5, 6 and 10)—Referred to Select Committee 582-613
Child Marriage Restraint (Amendment) Bill—(Amendment of Sections 2 and 4)—Referred to Select Committee 582-613
Child Marriage Restraint (Amendment) Bill—(Amendment of Sections 10 and 11)—Referred to Select Committee 582-613
Indian Penal Code and the Code of Criminal Procedure (Amendment) Bill—Motion to refer to Select Committee—Not moved 614
Criminal Tribes (Repeal) Bill—Motion to refer to Select Committee—Not moved. 614
Indian Penal Code (Amendment) Bill—(Amendment of Section 124A)—Motion to Consider—Not moved 614
Provincial Insolvency (Amendment) Bill—Withdrawn. 614
Indian Companies (Amendment) Bill—(Amendment of Section 88 F)—Motion to refer to Select Committee—Not moved 615
Indian Bar Councils and the Legal Practioners (Amendment) Bill—Withdrawn . 615
Code of Criminal Procedure (Amendment) Bill—(Amendment of Sections 496 and 497)—Motion to refer to Select Committee—Not moved 615
Indian Companies (Amendment) Bill—(Amendment of Sections 25, 31, 32 etc.)—Motion to refer to Select Committee—Not moved 615
Special Marriage (Amendment) Bill—Motion to refer to Select Committee—Not moved 616
Calcutta Port (Amendment) Bill—Motion to refer to Select Committee—Not moved 616
Bombay Port Trust (Amendment) Bill—Motion to refer to Select Committee—not moved 616
Madras Port Trust (Amendment) Bill—Motion to refer to Select Committee—Not moved 616
Workers' Provident Fund Bill—Motion to refer to Select Committee—Not moved . 616
Prevention of Free or Forced or Compulsory Labour Bill—Motion to consider—Not moved 616
Hindu Marriages Validity Bill—Motion to refer to Select Committee—Not moved. 616
Code of Criminal Procedure (Amendment) Bill—(Amendment of Sections 4, 29A etc.)—Motion to consider—Not moved 616
Motor Vehicles (Amendment) Bill—Motion to consider—Not moved . . . 617
Indian Judicial Procedure Bill—Motion to consider—Not moved 617
Indian Bar Councils and the Legal Practitioners (Amendment) Bill—Motion to consider—Not moved 617
Criminal Tribes (Repeal) Bill—Motion to consider—Not moved 617
Civil Marriages Bill—Introduced . . . . . 617—18
Dentists (Amendment) Bill—Introduced 618
Code of Criminal Procedure (Amendment) Bill—(Amendment of Section 488)—Introduced 618

THURSDAY, 26TH AUGUST, 1948— Pages

Change in Date for non-official Business in Assembly 619
Supply of Answers to Questions in advance to Members . . . . . 619—20

Elections to—
Standing Committee for Ministry of Defence 620
Standing Committee for Ministry of Communications 620-21
Exchange of Prisoners Bill—Introduced 621
Central Silk Board Bill—Presentation of Report of Select Committee . . 621
Factories Bill—Consideration of Clauses— Not concluded 622-62

SATURDAY, 28TH AUGUST, 1948—

Indian Income-tax (Amendment) Bill—Introduced 663
Indian Navy (Discipline) Amendment Bill—Introduced 663
Factories Bill—Passed as amended 664-707

MONDAY, 30TH AUGUST, 1948—

Elections to—
Standing Committee for Ministry of Works Mines and Power 709
Standing Committee for Roads 709-10
Indian Central Coconut Committee 710
Standing Committee for Ministry of Defence 710
Standing Committee for Ministry of Communications 710
Income-Tax and Business Profits Tax (Amendment) Bill—Passed as amended . 711-62
Taxation on Income (Investigation Commission) (Second Amendment) Bill—Passed. 762-64

TUESDAY, 31ST AUGUST, 1948—

Request for allotment of time for Debate on Hyderabad and Kashmir . 765-66
Papers laid on the Table—
Notifications under section 38 of Central Excises and Salt Act, 1944 . . 766-69
Cinematograph (Amendment) Bill—Introduced 769
Indian Tariff (Amendment) Bill—Introduced 769-70
Indian Tariff (Second Amendment) Bill—Introduced 770
Essential Supplies (Temporary Powers) (Amendment) Bill—Introduced . . 770
Motion re Procedure in making Rules to regulate the Procedure and Conduct of Business in the Assembly—Adopted 770-75
Hindu Code—Postponed 775-81
Cantonments (Amendment) Bill—Passed 781-83
Imperial Library (Change of Name) Bill—Passed 783-800
Bombay Public Security Measures (Delhi Amendment) Bill—Passed . . . 800-01
Mines and Minerals (Regulation and Development) Bill—Passed . . . 801-17

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE) DEBATES

(PART II—PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS)

Monday, 30th August, 1948

The Assembly met in the Assembly Chamber of the Council House at a Quarter to Eleven of the Clock, Mr. Speaker (The Honourable Mr. G. V. Mavalankar) in the Chair.

QUESTIONS AND ANSWERS

(*See* Part I)

11-45 a.m.

ELECTION TO STANDING COMMITTEE FOR MINISTRY OF WORKS, MINES AND POWER.

The Honourable Shri N. V. Gadgil (Minister for Works, Mines and Power): Sir, I move:

"That this Assembly do proceed to elect, in such manner as the Honourable the Speaker may direct, one member to serve until the end of the financial year 1948-49 on the Standing Committee to advise on subjects concerning the Ministry of Works, Mines and Power, *vice* Dr. Sir S. V. Ramamurthy resigned."

Mr. Speaker: Motion moved:

"That this Assembly do proceed to elect, in such manner as the Honourable the Speaker may direct, one member to serve until the end of the financial year 1948-49 on the Standing Committee to advise on subjects concerning the Ministry of Works, Mines and Power, *vice* Dr. Sir S. V. Ramamurthy resigned."

Prof. N. G. Ranga (Madras: General): May I know from the Honourable Minister whether this Committee has met since it was appointed and if so, how many times, whether the plans with regard to the various projects have been placed before the Committee and the Committee had been given an opportunity to consider the plans and advise the Government in regard to the priority to be given to them?

The Honourable Shri N. V. Gadgil: This Committee since its appointment last March met three times in Delhi and once at Khasoikvasala where the Central Irrigation Station is located. Every plan was put before them and every proposal for legislation when it goes before them is scrutinised by the members of the Standing Committee.

Mr. Speaker: The question is:

"That this Assembly do proceed to elect, in such manner as the Honourable the Speaker may direct, one member to serve until the end of the financial year 1948-49 on the Standing Committee to advise on subjects concerning the Ministry of Works, Mines and Power, *vice* Dr. Sir S. V. Ramamurthy resigned."

The motion was adopted.

ELECTION TO STANDING COMMITTEE FOR ROADS

The Honourable Dr. John Matthai (Minister for Railways and Transport): Sir, I move:

"That this Assembly do proceed to elect, in such manner as the Honourable the Speaker may direct, two members to serve on the Standing Committee for Roads, until the end of the current financial year, *vice* Shri Mohanlal Saksena and Shri B. P. Jhunjhunwala resigned."

Mr. Speaker: The question is:

"That this Assembly do proceed to elect, in such manner as the Honourable the Speaker may direct, two members to serve on the Standing Committee for Roads, until the end of the current financial year, *vice* Shri Mohanlal Saksena and Shri B. P. Jhunjhunwala resigned."

The motion was adopted.

ELECTION TO INDIAN CENTRAL COCONUT COMMITTEE

The Honourable Shri Jairamdas Daulatram (Minister for Food and Agriculture): Sir I beg to move:

"That in pursuance of clause (g) of section 4 of the Indian Central Coconut Committee Act, 1944, the members of this Assembly do proceed to elect, in such manner as the Honourable the Speaker may direct, one member from among themselves to be a member of the Indian Central Coconut Committee, *vice* Haji Abdus Sattar Haji Ishaq Seth."

Mr. Speaker: The question is:

"That in pursuance of clause (g) of section 4 of the Indian Central Coconut Committee Act, 1944, the members of this Assembly do proceed to elect, in such manner as the Honourable the Speaker may direct, one member from among themselves to be a member of the Indian Central Coconut Committee, *vice* Haji Abdus Sattar Haji Ishaq Seth."

The motion was adopted.

Mr. Speaker: I have to inform honourable members that the following dates have been fixed for receiving nominations and holding elections, if necessary, in connection with the following Committees, namely:—

	Date for nomination	Date for election
Standing Committee for the Ministry of Works, Mines and Power Standing Committee for Roads Indian Central Coconut Committee	1-9-48	3-9-48

The nominations for these Committees will be received in the Notice Office upto 12 Noon on the date mentioned for the purpose. The elections, which will be conducted by means of the single transferable vote, will be held in the Assistant Secretary's Room (No. 21) in the Council House between the hours 10-30 A.M. and 1 P.M.

ELECTIONS TO STANDING COMMITTEES FOR MINISTRIES OF DEFENCE AND COMMUNICATIONS

Mr. Speaker: I have also to inform the Assembly that upto the time fixed for receiving nominations for the Standing Committees for the Ministries of Defence and Communications, one nomination in the case of the first and two nominations in the case of the second were received. As the number of candidates is equal to the number of vacancies in each of the two Committees. I declare the following members to be duly elected:

I. *Standing Committee for the Ministry of Defence.*—Shri Gopikrishna Vijayavargiya.

II. *Standing Committee for the Ministry of Communications.*—(1) Shri K. Hanumanthaiya, (2) Shri Mahavir Tyagi.

INCOME-TAX AND BUSINESS PROFITS TAX (AMENDMENT) BILL

The Honourable Shri K. C. Neogy (Minister for Finance and Commerce): Sir, I beg to move: .....

Shrijut Rohini Kumar Chaudhuri (Assam: General): Sir, on a point of order, the Honourable Minister is not speakiug from his seat.

Mr. Speaker: I may inform the honourable member that before the honourable Minister changed his seat he had taken my permission.

The Honourable Shri K. C. Neogy: May I explain the circumstanoes. The House is aware that I came to be in charge of this measure only very recently and I wanted to have the advantage of the assistance of my honourable colleague the Law Minister, who was the chairman of the Select Committee and therefore I sought the Honourable the Speaker's permission to sit near him, so that between us two we can pilot the Bill in the House.

Sir, I beg to move:

"That the Bill further to amend the Indian Income-tax Act, 1922, and the Business Profits Tax Act, 1947, as reported by the Select Committee, be taken into consideration."

Sir, I should like on this occasion to make a few remarks about the principal provisions of this measure, around which some amount of controversy haa raged. I refer to the provisions of clauses 7 and 8, in particular. If I may recall the circumstances in which these provisiona oame to be placed before the Legislature, I would remind the House that among the provisions of the Act which led to the appointment of an Investigation Commission in regard to taxation is a duty which is laid upon that body "to investigate and report to the Central Government on all matters relating to taxation on income with particular reference to the extent to which the existing law relating to and procedure for the assessment and collection of such taxation is adequate to prevent the evasion thereof."

Soon after the appointment of the Commission, which took place about the end of 1947 the Commission addressed themselves to the task of examining the state of the law in so far as it acted as a kind of encouragement to the tax-evader. The Commission, about whose high authority I need not remind the House, drew up a long memorandum and circulated it to 60 different institutions interested in the subject, besides calling for information from others concerned. In the course of their investigation they also discussed the matters at issue with representatives of various interests and as a result of this careful examination they made a report to the Government suggesting that very early action should be taken for the purpose of carrying out their recommendations in this behalf. These recommendations were duly considered by the Government and were accepted *in toto*. As a matter of fact the draft of the Bill in regard to these matters is in the main a reproduction of the draft suggested by the Commission themselves. It was anticipated, as a matter of fact it has been suggested by the Commission, that the measure should be passed iuto law during the last session. When the measure came up, my predecessor was expected to make a motion for taking the Bill into consideration straightaway but as a result of an amendment moved, I think by my honourable friend Mr. Ananthasayanam Ayyangar, the Bill was referred to a Select Committee. We have now the report of the Select Committee before us and I am glad to find that so far as the main provisions of this measure are concerned the Select Committee have approved of it and if they have made any amendments anywhere, they have not touched the underlying principles of the provisions to which I have referred. Sir, my intention in referring to these circumstances is to emphasize the urgency as also the

[Shri K. C. Neogy.]

importance of enacting the provisions to which I have referred without any amendment in this House.

I should not like to take any more time of the House by way of referring to the other provisions of the Bill, but I find that there are certain amendments, particularly with regard to clause 4, on which I might have something to say when it comes up.

Mr. Speaker: Motion moved:

"That the Bill further to amend the Indian Income-tax Act, 1922, and the Business Profits Tax Act, 1947, as reported by the Select Committee, be taken into consideration."

Mr. Nasiruddin Ahmad (West Bengal: Muslim): I rise to support the motion. I have, however, a small grievance in this respect, namely, the copy of the Bill which the Secretary is required to make available to every member and which was supplied to me really consists of two copies of the report alone pasted together and the Bill which is the essential thing was entirely absent. I discovered it on the night of Thursday last and I could not procure a copy because Friday was a holiday. I got the Bill on Saturday but I was engaged in the House throughout that day and I have sent notice of some amendments today, that is the earliest day for me. They will, I believe be circulated in that form. I hope that taking these circumstances into consideration on the ground of hardship these amendments may be considered, unless they are obviously unnecessary.

With regard to this Bill, I support the principle outright. There has been a large number of evasions by the tax-payer and also evasions in which the Income-tax officers do not go scot free. Things have come to light due to the labours of the Investigation Commission which is now sitting, and in view of their recommendations, and in view of their experience these provisions of the Bill have come up before the House. I submit, Sir, that the Bill should be passed without any serious amendment.

With regard to clause 9, however, I find that the provision requires a little amount of strengthening. Clause 9 is nothing but an addition to sub-section (5A) to section 46. This consists of a number of paragraphs which I have suggested should be numbered as separate sub-sections, but that is another matter.

With regard to paragraph 3 of the proposed sub-section, it is provided that if the assessee is left without any property, but if anybody owes any money to him, namely a banker or a debtor or a tenant, the Income-tax Officer will serve a notice upon him not to pay the amount to the assessee and the Income-tax Officer will direct that man to pay such amount as the Income-tax Officer thinks necessary to the Income-tax Officer himself and that would be regarded as payment to the assessee. It is provided in this paragraph that if that man does not pay it to the Income-tax Officer but rather pays to the assessee disregarding the provisions of the notice, no penalty is provided for. It may be that the assessee owes really a large amount of tax to the Government and he has some money or other property with a third person and this third person may otherwise, apart from being the custodian of the money, be a man of straw and the section simply says that if he does not pay the money to the Income-tax Officer, the money will be realised from him. I submit that if he is an insolvent or a man of straw, this would not be sufficient; the Income-tax Officer will have to run after him and proceed against him in the Civil Court. I think some punishment should be attached to this and if a notice is served upon a man not to pay the amount to the assessee but hold it for the Income-tax Officer, then that notice should not be disregarded. I feel that some penalty of a deterrent character should be attached to this disregard of the

notice; otherwise on the matter of tax evasions we are dealing with men who are nothing better than bad characters and rascals. This is what I want the Honourable Minister to consider. The provision should he made rather deterrent so as to make evasions absolutely impossible. These are some of
12 Noon the few remarks which I have to make; otherwise, I am in full agreement with the principles of the Bill and I hope that the Government should proceed full steam ahead with the scheme before them.

پنڈت ٹھاکر داس بھارگو : اس بل کے بارے میں میں چند ایک observations جناب کی خدمت میں پیش کرنا چاہتا ہوں ان میں سے پہلی بات جو میں عرض کرنا چاہتا ہوں وہ یہ ہے کہ دراصل جو آج ہمارے Income-tax administration کی حالت ہے وہ نہایت ہی تکلیف دہ ہے - ایک طرف تو اس میں مداقت ہے کہ بہت سارے لوگ tax خوشی سے دینا نہیں چاہتے - کچھ تو انسانی فطرت اس قسم کی ہے کہ کوئی شخص اپنی آمدنی کا کوئی حصہ کسی اچھے کام کے واسطے بھی دینا نہیں چاہتا اور دوسرے ابھی لوگوں میں یہ احساس نہیں ہوا ہے کہ اب جب کہ گورنمنٹ کی نوعیت تبدیل ہو گئی ہے اور گورنمنٹ ہماری National Govt. ہو گئی ہے تو اس وقت جو گورنمنٹ کا due ہے اس کو نہ دینا ایک بڑا بھاری پاپ ہے - اب اس کی ضرورت ہے کہ لوگ اس بات کو محسوس کریں کہ کوئی جرم اتنا معیوب نہیں ہے جتنا کہ اس رقم کو سرکار کو نہ دینا جس کے دینے کی قانون ہدایت کرتا ہے - لیکن اِس mentality میں لوگوں کا کچھ زیادہ قصور نہیں ہے - ہمکو یاد ہے کہ خود Income-tax Deptt. کے tribunals اور ہمارے ملک کی High Courts نے یہ فیصلہ دیا تھا کہ اگر legitimate means سے کوئی evasion ہو سکتا ہے تو یہ نہ کوئی پاپ ہے اور نہ یہ کوئی گناہ ہے - یہ mentality صرف اسی چیز میں نہیں بلکہ پورے طور پر قانون پر چلنے میں بادھا پہنچاتی ہے --اور یہ صرف income-tax ہی کے Tribunal کا فیصلہ نہیں ہے بلکہ یہ کتنے ہی criminal courts کے فیصلے ہیں کہ اگر کوئی شخص legitimate طریقے سے قانون کو evade کر سکتا ہے تو اس کو قانوناً اختیار ہے کہ وہ ایسا کرے - اور بھی بہت سی وجوہات ہیں - جن میں میں جانا نہیں چاہتا - ہر ایک tax دینے والا یہ جانتا تھا کہ جو tax اس کی جیب سے نکلتا ہے وہ اسی کی آزادی کو دبانے کے واسطے کام میں لایا جاتا ہے - اس طرح اس tax evasion کی تہہ میں یہ وجہ بھی تھی اور اپنا الّو بھی تھا لیکن اپنے moral conscience کو satisfy کرنے کے واسطے وہ ان تجویزوں پر بھی عمل کرتا تھا - آج حالت تبدیل ہو گئی ہے اور میں چاہتا ہوں کہ ہر ایک آدمی اب اپنی ذمہ داری کو محسوس کرے اور tax دینے کے معاملہ میں اُتنی ہی ایمانداری سے کام کرے جس طرح کہ وہ کسی دھرم کے کام میں کرتا ہے -

یہ عرض کرنے کے بعد دوسری چیز جس کی طرف میں جناب کی توجہ دلانا چاہتا ہوں وہ ایک بہت ضروری چیز ہے جیسا کہ لوگ ہماری National Govt.

[پنڈت ٹھاکردلس بھارگو]

کے آنے سے پہلے سمجھتے تھے اس طرح آج بھی Income-tax سے بچ جانا معیوب چیز نہیں ہے اسی طرح سے Income-tax کے افسران بھی اپنا بڑا بھاری گورو (गौरव) یہ سمجھتے تھے کہ جہانتک ہو سرکار کی آمدنی کو بڑھانا چاہئیے چاہے غریب assessee کی کچھ ہی حالت ہو - ان کی ترقی کا دارومدار اسی پر تھا - ان کے پیچھے ایک طاقت رہتی تھی جسکا نام Inspecting Assistant Income-tax Commissioner تھا وہ ان افسران کی چاہے جب گردن مروڑ سکتا تھا اگر کسی Income-tax افسر کے ضلع میں کم ٹیکس (tax) وصول ہوا تو اس کو حکم ہوتا تھا کہ اتنا tax کم کیوں ہوا - یہ دونوں ہی چیزیں غلط ہیں -

آج جو بڑے بڑے لوگ ہیں اور جو بڑے بڑے کام کرتے ہیں اُن کو نہیں معلوم کہ غریب لوگوں کے ساتھ معمولی درجہ کے لوگوں کے ساتھ Income-tax افسر کیا سلوک کرتے ہیں - ایسی حالت میں کوئی تعجب کی بات نہیں کہ اِدھر تو ہمیں یہاں پر اسمبلی (Assembly) میں بڑے بڑے اصول بتلائے جاتے ہیں اور Practice کے اندر آج ہم جاکر دیکھتے ہیں تو اُن اصولوں کو دیکھتے ہیں جو ناقابل برداشت ہیں - انکم ٹیکس (Income-tax) افسران اور Inspector صاحبان کو اِتنی بڑی طاقت ملی ہوئی ہے کہ وہ چاہے جس شخص کو چاہے جس طرح دبا سکتے ہیں - آپ اِس واسطے اِن بے اعتدالیوں سے بچنے کے لئے اِن دونوں چیزوں کو دور کریں - جو ضروری چیز ہے وہ یہ کہ ہم ایسا قانون نافذ کریں جو certain ہو—جو arbitrary power انسپیکٹر اور انکم ٹیکس آفیسر کے ہاتھ میں نہ دے - اور جہانتک غریب assessees کا سوال ہے اور middle class assessees کا سوال ہے جو عام طور پر tax دینے سے نہیں بچتے ہیں- اُن کے اوپر بیجا سختی نہ کی جائے- جو investigating commission بنا ہے وہ بڑے آدمیوں کے واسطے ٹھیک ہے کیونکہ اُن لوگوں نے فون کیا ہے - اُن کے واسطے آپ جو طاقت چاہیں لے لیں - گو کہ میں اُس طاقت کے واسطے بھی یہ چاہتا ہوں کہ وہ arbitrary نہ ہو - لیکن تاہم جو ایسے جرم کرتے ہیں اور جو state کو نقصان پہنچاتے ہیں اُن کے لئے تو کوئی justification ہو سکتا ہے - لیکن اُن کے نام سے یہ کہکر یہ طاقت لی جاتی ہے کہ یہ اِنہیں کے خلاف استعمال کی جائیگی مگر یہ honest assessees کے خلاف استعمال ہوتی ہے - وہ Income-tax افسر جو اِس طاقت کو استعمال کرتا ہے وہ یہ تمیز نہیں کرتا کہ کونسے honest assessees ہیں اور کونسے dishonest ہیں - dishonest لوگ تو اپنے روپئے کی طاقت سے بچ جاتے ہیں لیکن honest assessee کو پریشان کیا جاتا ہے - اسلئے میں ادب سے عرض کرنا چاہتا ہوں کہ ہمیں اِس قانون کے نافذ کرنے میں جو ضروری بات دھیان میں رکھنی چاہئیے وہ یہ کہ اِس طرح کی طاقت جس پر پورا control نہ ہو سکے

Income-tax افسران اور Inspectors کو نہ دینی چاہئے - اگر اِس نکتہ خیال سے اِس قانون کو دیکھیں تو میں ادب سے عرض کرونگا کہ یہ قانون اِس کسوٹی پر پورا نہیں اُترتا -

اور جو Investigating Commission قائم کی گئی ہے اُس کے ہر فیصلے کے بارے میں گورنمنٹ کے سلسٹر صاحبان کہتے ہیں کہ یہ ایک expert committee کا فیصلہ ہے - اسکو تبدیل کرنے سے expert committee کا status تبدیل ہو جائیگا - میں سمجھتا ہوں کہ اِس معاملہ میں کوئی expertness کا سوال نہیں ہے - ہم اور آپ اِن سوالوں کو اچھی طرح دیکھ سکتے جو روزمرہ ہمارے سامنے آتے ہیں اور جن سے ہم کو سخت تکلیف ہوتی ہے -

جو بڑے بڑے اکسپرٹ (Expert) صاحبان انویسٹی گیشن کمیٹی Investigation Committee میں ہیں - وہ بھی سب فریب اور اوسط درجہ کے طبقہ کی تکلیف کو نہیں جانتے ہیں - اور انکو نہیں معلوم ہے کہ کس طرح یہ اختیارات برتے جاتے ہیں - محض تھوریٹیکل (thooretioal) طریقے پر فیصلہ کرتے ہیں - اِسلئے میں جناب والا کی خدمت میں عرض کرونگا کہ دفعہ سات اور آٹھ پر ملن تین باتوں کے خیال سے جانچ کی جائے کہ آیا یہ طاقت جو دی گئی ہے وہ ٹھیک دی گئی ہے یا غلط دی گئی ہے - اول تو جو چیز میں نے عرض کی ہے وہ یہ ہے کہ قانون سرٹین (certain) ہونا چاہئیے - دفعہ سات اور آٹھ کو پڑھنے سے معلوم ہوتا ہے کہ انویسٹی گیشن کمیٹی (Investigation Committee) نے جو کسوٹی رکھی تھی اُس پر وہ پوری نہیں اُترتی ہیں - میں نے کہا تھا کہ جہاں تک ایرر آف لا (error of law) کا سوال ہے اُس میں کمشنر (Commissioner) کو طاقت دی جائے اور جہاں تک سوال ہے فیکٹ (fact) کا وہاں انکم ٹیکس آفیسر (Income-tax Officer) کو طاقت دی جائے اگر کوئی ممبر (Member) اس بات میں کوشچن (question) کرتا ہے تو میں اُس کی توجہ انویسٹی گیشن کمیٹی (Investigation Committee) کی جو رپورٹ (Report) ہے اُس کے صفحہ تین پیرا (para.) سات کی طرف دلانا چاہتا ہوں جس میں یہ درج ہے

"We, however, agree that it is possible to maintain that an assessment should not be allowed to be reopened under section 34 merely on the ground that the Income-tax Officer who made the assessment has misunderstood or misapplied the law or that a different view of the law or of the facts is possible. The proper remedy in such cases, if the Department considers the matter to be one of sufficient importance, is to allow the matter to be fought right on appeal or in revision."

میں اِن الفاظ یعنی شیفشنٹ امپارٹنس (sufficient importance) کی طرف جناب والا کی توجہ دلاتا ہوں جو اس رپورٹ (Report) میں صفحہ تین پر پیرا (para) سات میں درج ہے اور پھر صفحہ ۴ کے نوٹ میں بھی یہ درج ہے

"Cases of error of law or erroneous inference of fact will no longer fall under section 34, the Commissioner must, therefore, have power to pass appropriate orders in such cases under section 33-B itself. That is also the reason why we have now provided for an appeal by the assessee to the Tribunal against the Commissioner's order."

[پنڈت ٹھاکرداس بھارگو]

جناب والا ! میری ادب سے گزارش یہ ہے کہ دفعہ 33 (b) اور 34 اگر موجودہ صورت میں دیکھی جائے تو یہ ایک دوسرے کو اوورلیپ (Overlap) کرتی ہیں کیا وجہ ہے کہ انکم ٹیکس افیسر (Income-tax Officer) صاحب کو بھی اور کمشنر (Commissioner) صاحب کو بھی ایک اسیسی (assessee) کے خلاف اس کے سارے انکم ٹیکس اکاونٹ (Income-tax account) کو ری اوپن (reopen) کرنے کی اجازت دی جائے - اگر مقصد یہ ہے کہ کمشنر (Commissioner) صاحب صرف قانون کے معاملہ کو ری اوپن (reopen) کر سکیں اور انکم ٹیکس افیسر (Income-tax Officer) صاحب صرف فیکٹس (facts) کے معاملہ کو ری اوپن (reopen) کر سکیں تو یہ ایک بات سمجھ میں آسکتی ہے - لیکن دونوں کو اختیار دیئے جائیں کہ دونوں کے دونوں ان معاملوں کو ری اوپن (reopen) کر سکتے ہیں تو میں ادب سے عرض کرتا ہوں کہ اس کے لئے کوئی وجہ نہیں ہے کہ ان دونوں کو یہ طاقت دی جائے - یہ ایک دوسرے کو اوور لیپ (overlap) کرتی ہے انویسٹی گیشن کمیٹی (Investigation Committee) کی رپورٹ (report) میں جس کے لئے کہ ہر ایک ممبر (member) گورنمنٹ کو تعریف کے پل باندھتا ہے یہ اختیار نہیں دیا گیا ہے تو پھر میں نہیں سمجھتا کہ دفعہ 33 (B) کے ترافٹ (draft) میں کہیں نہیں یہ الفاظ رکھے گئے کہ صرف کمشنر (Commissioner) صاحب کو یہ اختیار رہے گا کہ وہ قانونی معاملہ کو ری اوپن (reopen) کر سکتے ہیں - اب تو یہ جو قانون آپ بنا رہے ہیں وہ بالکل نا مناسب ہوگا - ہر ایک انکم ٹیکس افیسر (Income-tax Officer) چاہے گا تو محض قانون کی بنا پر ری اوپن (reopen) کر دینا اور اس طرح سارا قانون کنفیوژن (confusion) میں پڑ جائیگا جو کہ رپورٹ کمیٹی کی منشا کے خلاف ہوگا اور شاید منسٹر (Minister) صاحب کی منشا کے بھی خلاف ہو - اسلئے میں عرض کرتا ہوں کہ یہ جو انویسٹی گیشن کمیٹی (Investigation Committee) کی رپورٹ (report) میں جو درج ہے اُس پر عمل کیا جائے اور اس بات کو بالکل صاف کر دیا جائے کہ کمشنر (Commissioner) صاحب محض لا (law) کی بنا پر کاروائی کرسکینگے

دوسری چیز جس کے بارے میں میں توجہ دلانا چاہتا ہوں وہ یہ ہے کہ جناب والا لوئر مڈل کلس (Lower middle class) کے غریب اسیسی (assessee) کے خلاف اس کا عمل نہیں کیا جانا چاہئے ابھی میں نے پڑھ کر سنایا کہ انویسٹی گیشن کمیٹی (Investigation Committee) کی رپورٹ (report) میں یہ درج ہے کہ جب تک معاملہ سفی شنمت امپارٹینس (sufficient importance) کا ہو تب تک کیس کو reopen نہ کیا جائے یہ صفحہ نمبر پر درج ہے-

"The proper remedy in such cases, if the Department considers the matter to be one of sufficient importance, is to allow the matter to be set right on appeal or in revision.

اور جب میں نے اس معاملہ کا ذکر کر دیا ہے تو میں یہ چیز صاف کردوں کہ جب یہ چیز تسلیم کرلی گئی تھی تو یہ خیال تھا کہ بڑے کیسز (cases) کے لئے یہ چیز استعمال ہوگی اور چھوٹے معاملوں کے لئے نہیں۔

لیکن جنہوں نے اس اصول کو مانا تھا وہ آج فائنانس منسٹر صاحب اکثر سیٹ (seat) میں نہیں ہیں اور میں نہیں جانتا کہ کل فائنانس منسٹر (Finance Minister) کا کام کون کریگا - سلیکٹ کمیٹی (Select Committee) میں یہ مانا گیا تھا کہ یہ بڑے کیسز (cases) پر لاگو ہوگا اور چھوٹوں پر نہیں ہوگا اسلئے میں نے جو اصلاحات (amendment) بھیجے ہیں اُن میں سے ایک کا منشا یہ ہے کہ اگر قانون کی بات ہو تو اُس کو انکمٹیکس افیسر (In-cometax-Officer) صاحب ری اوپن (reopen) نہ کرسکیں میں سمجھتا ہوں کہ اس پر مناسب غور کیا جائیگا اور اس اصلاحات (amendment) کو منظور کرایا جائیگا -

اب ایک دوسری چیز جو میں عرض کرنا چاہتا تھا وہ یہ ہے کہ یہ جو معیاد مقرر ہے اسیسمنٹ (assessment) کو ری اوپن (reopen) کرنے کی وہ دوسرے ملکوں میں یہاں سے کم ہے کو اُن کا سمجھن آف لائف (span of life) یہاں سے بہت زیادہ ہے یہاں پر آٹھ سال اور چار سال کی تجویز کی گئی ہے ایسے اشخاص کے بارے میں کہ جنہوں نے اپنی رٹرن (return) کو چھپا لیا ہے یا رٹرن (return) نہیں دیا ہے تو ایسی صورت میں آٹھ سال کی میعاد مقرر کی گئی ہے - باقی کے واسطے چار سال مقرر ہے -

لیکن دوسرے ملکوں میں یہ میعاد چھ سال کی ہے - آٹھ سال کی میعاد میں سمجھتا ہوں کہ زیادہ ہے - آدمی اُتنے عرصہ تک زندہ نہیں رہتے ہیں - یہ میعاد کم کردینی چاہئیے اور خاص کرکے ایسے اشخاص کے بارے میں کہ جو اوریجنل اسیسی (original assessee) نہ ہوں - یہ شاید ہر ایک شخص کے تجربہ میں ہے کہ جو بزنس مین (businessman) آج لکھپتی ہے وہ کل بھوکا ہو جاتا ہے اور جو آج بھوکا ہے وہ اگر سٹہ لیٹو بزنس (speculative business) کرتا ہے تو ایک سال کے اندر اُس کی حالت دگر گوں ہوجاتی ہے کہاں آٹھ سال اور چار سال کا ذکر ہے میں عرض کرتا ہوں کہ اگر وہ مرجاتا ہے تو اس کے کرائم (crime) کا نتیجہ اُس کی اولاد کو دینا ٹھیک نہیں ہے - اسلئے میں عرض کرونگا کہ اس میعاد کو کم کردینا چاہیے - اور اُس میعاد کو ایسے آدمیوں کے لئے نہیں رکھنا چاہئیے کہ جنہوں نے ایمان داری سے اپنی اپنی رٹرن (return) داخل کی ہو - جنہوں نے اپنی انکم کو چھپایا نہ ہو اور جنکے اوپر کسی طریح کا الزام نہیں رکھا جاسکتا ہے - ایسے آدمیوں کے سر پر چار سال تک ڈیموکلز (Damocles) کی سورڈ (Sword) رکھنا میری سمجھ میں ہرگز مناسب نہیں ہے - یہ انصاف

کے خلاف ہے - پبلک پالیسی (public policy) کے خلاف ہے - جناب والا! ایسے شخص جو ٹیکس سے بچنا چاہتے ہیں اُن کے لئے آپ جو چاہیں کریں میں ٹیکس اویڈر (tax evader) کا دوست نہیں ہوں لیکن میں نہایت ادب سے عرض کرنا چاہتا ہوں کہ نان اویڈرس (non evaders) جن کے لئے آپ آنسو بہاتے ہیں ان کے ساتھ آپ کیا ہمدردی کا سلوک کرتے ہیں آپ کے انکم ٹیکس آفیسر (Income-tax Officer) جس طرح کام کرتے ہیں۔ اِسکا حال آپ کو پورا معلوم نہیں ہے پھر اسکے بعد آپ آٹھ سال یا چار سال کا عرصہ جانتے ہیں کہ وہ جسقدر کام چاہیں کرسکیں میں ادب سے عرض کرتا ہوں کہ یہ انصاف کے خلاف ہے عدالتوں میں ریس جوڈی کیٹا (resjudicata) کے اصول ہوتے ہیں اور دفعہ ۴۰۳ ضابطہ فوجداری کے اصول سے ان کے اوپر مجھے زیادہ کہنے کی ضرورت نہیں ہے-

میں عرض کرنا چاہتا ہوں کہ ری اوپن (reopen) کرنے کا اختیار ایسی حالت میں چاہئیے جب کہ پورا پتہ چل جائے کہ کوئی غلطی کی گئی ہے یا بعد میں ایسے واقعات علم میں آئے ہوں کہ جن کو وہ پہلے نہ جانتا ہو اور جلکو اسسی (assessee) بھی نہ جانتا ہو - میں نہیں چاہتا کہ جس شخص کو کوئی زیادہ ٹیکس دینا ہو تو وہ اُس سے بچ جائے - لیکن تاہم اتنا بڑا عرصہ reassessment دوبارہ کے لئے نہیں دینا چاہئیے آپ اتنے بڑے اختیارات اس طرح لائٹ ہارٹیڈلی (light heartedly) دے رہے ہیں - یہ اختیارات انکم ٹیکس (income-tax) کے ہر ایک غریب آدمی آنیسٹ (honest) آدمی کے خلاف کام میں لائے جاسکتے ہیں - آپ چاہیں تو ایک نیا قانون بنا دیں کہ جن کی آمدنی بہت زیادہ ہے اُن پر وہ لاگو ہو لیکن غریب آدمی کے خلاف آرڈی نری لا آف دی لینڈ (ordinary law of the land) میں اس طرح کا آربی ٹریری (arbitrary) قانون بنانا ہرگز جائز نہیں ہے - قانون اس طرح کا ہونا چاہئیے کہ جس سے غریب اور آنیسٹ (honest) اسیسی (assessee) بچ جائے - چنانچہ میں نے اُن چند ترمیمات کی طرف آپ کی توجہ مبذول کرائی ہے جو کہ اس میں کی جانی ضروری ہیں - اور جب وہ ترمیمات پیش ہونگی تب میں اُن پر بحث کرونگا-

اس کے علاوہ میں دو باتوں کی طرف جناب کی اور ہاؤس کی توجہ دلانا چاہتا ہوں اور وہ یہ کہ مضمون دفعہ نمبر ۴ کی نسبت قانون بالکل صاف ہے - سنٹرل گورنمنٹ کو اختیار ہے کہ وہ انکم ٹیکس عاید کرے - ان کے علاوہ اور کوئی Authority ایسی نہیں ہے جو کہ انکم کے اوپر ٹیکس حاصل کرے - اگر گورنمنٹ کو یہ معلوم ہو کہ کسی جگہ انکم پر ڈبل ٹیکس لیا جاتا ہے وہاں پر ان کو اُس کو ہٹانا چاہئیے - اگر ایک پراونشل گورنمنٹ کو یہ اختیار ہے کہ وہ ایسے ٹیکس لگائے

تو سنٹرل گورنمنٹ کو بھی تو یہ اختیار ہے کہ اُس کو ہٹائے - اس وقت پراونسز میں چند ایسے ٹیکس لگائے گئے ہیں جو کہ انکم ٹیکس کے نوعیت کے ہیں - مثلاً پنجاب میں اس وقت ایک ٹیکس لگایا گیا ہے - وہ یوں ہے کہ ایک لیٹڈ کمپنی کو جو کچھ بھی بارہ مہینے کا کرایہ کسی مکان پر آتا ہے اُس میں سے ایک مہینے کا کرایہ بطور ٹیکس وصول کیا جاتا ہے - اس قسم کا ٹیکس بھی تو انکم پر ٹیکس ہے - اور اس طرح سے یہ ڈبل ٹیکس ہو جاتا ہے - یہ جو اس قسم کے ٹیکس لئے جاتے ہیں ان سب کو exempt کرنا چاہیئے تاکہ غریب لوگوں پر خواہمخواہ کا بوجھ نہ پڑے-

اب جہاں تک مونسپل ٹیکس کا تعلق ہے اس کو سلیکٹ کمیٹی نے نہایت غوروخوض سے consider کیا ہے اور میں اُمید کرتا ہوں کہ اس پر اب نئے سرے سے دوبارہ چہان بین کرنے کی ضرورت نہیں ہے - اس کو اسی form میں رہنے دینا چاہیئے جس فارم میں کہ وہ سلیکٹ کمیٹی نے پاس کیا ہے -

جہاں تک دفعہ ۴۹ کا تعلق ہے - میں نہایت ادب سے گذارش کرونگا کہ اس دفعہ میں ترمیم کی ضرورت ہے - اگر ایک شخص نے کسی سے قرضہ لیا ہے - تو اُس سے وہ گورنمنٹ کے ذریعہ سے وصول نہیں کر سکتا ہے اُس کو یہ کہا جائے کہ وہ یہ سب اپنے risk پر دے یہ ٹھیک نہیں ہوگا - مثلاً اگر میں نے کسی سے قرضہ لیا ہے اور دوسرے شخص نے میرا قرضہ یا کوئی اور claim دینا ہے تو مجھے یہ اختیار ہونا چاہیئے کہ میں یہ کہدوں کہ میں نے اس سے روپیہ لینا ہے مجھے یہ claim کرنے کا حق ہے جو کہ مجھکو اپنا claim یا روپیہ ملنا ہے - تاکہ ایک آدمی جسکو حق وصولی روپیہ خود ہو وہ Defendant کے اس claim کو resist کر سکے اور یہ وصولی debtor سے نہ کی جائے - اس کے علاوہ میں یہ بھی عرض کرنا چاہتا ہوں کہ دفعہ نمبر ۹ کی بھی ترمیم کی جائے -

اِن باتوں کے علاوہ میں ایک اور عرض کرنا چاہتا ہوں اور وہ Hindu Joint Family کے بارے میں ہے - اس بارے میں جناب کے روبرو بہت دفعہ میں عرض کرچکا ہوں - اور اب اُس کو دوہرانے میں مجھکو شرم بھی آتی ہے- اس دفعہ یہاں پر گورنمنٹ کی طرف سے ایک Hindu Code Bill آرہا ہے - جس کی رو سے Hindu Joint Family کو بالکل ہی out of existence کردیا گیا ہے - اور جب یہ ہندو کوڈ بل نافذ ہوگا تب Joint family system ختم ہو جائیگا - ایک طرف تو آپ اس قسم کے قانون بنانا چاہتے ہیں اور دوسری طرف سے آپ کچھ اور کہتے ہیں - حالانکہ ابھی تک Hindu Joint family system یہاں موجود ہے - لیکن میں یہ عرض کرونگا کہ میں اُن آدمیوں میں سے نہیں ہوں جو کہ اس Joint family system کے بہت زیادہ دلدادہ ہیں میں سمجھتا ہوں کہ زمانہ یہ system ختم ہوچکا ہے اور اب آیندہ نہیں رہ سکتا - تو کیوں نہ سرکار اور انکم ٹیکس کا محکمہ اس اصلیت

[پنڈت ٹھاکرداس بھارگو]

کو کم نہیں کرتا اور ہندو خاندان کو دوسرے ٹیکس سے خارج نہیں کردیتا جب ایسی حالت ہے تو مجھے سمجھ نہیں آتی کہ آپ بے وجہ ہر بات میں کیوں ایک Joint family کے ممبروں پر بوجھ ڈالتے ہیں -

پچھلی دفعہ آنریبل فائنانس منسٹر نے یہ کہا تھا کہ دفعہ نمبر (۱۷)۲۲ کے تحت اگر کوئی یہ claim کرے کہ میرا partition ہوچکا ہے - تو اُسکو partition ہوا ہوا ہی سمجھنا چاہیئے - اور اُس کے زبانی کہدینے پر یہ تصور کیا جائے کہ partition ہوگیا ہے - لیکن آج تک اس قسم کی کوئی instructions اس بارے میں نہیں ہوئے ہیں حالانکہ ایسا اقرار کیا گیا تھا - مجھے سمجھ نہیں آتی کہ جس وقت یہاں پر قانون بنائے جاتے ہیں تو اس وقت یہاں پر ہمیں یہ کہدیا جاتا ہے کہ اس میں اس قسم کی کوئی بات نہیں ہے - کہ جو خطرے والی ہو - اس کے ان باتوں میں جانے کی ضرورت نہیں ہے - لیکن بعد میں ہمیں اُن ہی مشکلات کا سامنا کرنا پڑتا ہے جن کے بارے میں ہم نے قانون بناتے وقت اپنا خدشہ ظاہر کیا ہوتا ہے پچھلی دفعہ آنریبل فائنانس منسٹر صاحب نے Investigation Commission کے سلسلے میں کہا تھا کہ کل تیس کیس refer کیجائینگے - لیکن بعد میں صرف احمدآباد ہی میں ۱۳۰ (ایک سو تیس) کیس ہوئے ہیں اور اس کے علاوہ اور ۸۰۰ (آٹھ سو) کیس refer کئے گئے ہیں - لیکن یہاں پر کہا گیا تھا کہ صرف ۳۰(تیس) کیس refer ہونے ہیں -

میں جناب سے نہایت ادب سے یہ گذارش کرونگا کہ اس وقت جو ملک میں حالت ہے - اُس سے لوگ نہایت dissatified ہیں اور آپ لوگوں کی اس dissatisfaction کا تخمینہ نہیں لگا سکتے ہیں کہ کس قدر ہے - اس لئے میں یہ عرض کرونگا کہ ہندو joint family کے بارے میں آنریبل منسٹر کو بہت ہی غور و خوض کرنا چاہیئے اور ایسے اقدام اُٹھانے چاہیں جوکہ مناسب اور فائدہ مند ہوں اور تکلیف دہ نہیں ہوں اس وقت کچھ ایسی تجویزیں سامنے آرہی ہیں جن سے کہ Hindu Joint Family کے ممبران پر بہت بھار پڑ جاتا ہے - ایسا نہیں ہونا چاہئے ایسی تدابیر عمل میں لائی جانی چاہیں جن سے لوگوں کو سختی نہ ہو -

ان حالات کو دیکھتے ہوئے آنریبل منسٹر جو کہ فائنانس منسٹر کی جگہ کام کرتے ہیں اُن سے میں یہ اُمید رکھتا ہوں کہ وہ اس بارے میں اپنی توجہ دینگے اور میری چند ترمیمات میں سے جو تمام اُن کو پسند آئیں اُن کو قبول فرمائینگے -

(English translation of the above speech)

Pandit Thakur Das Bhargava (East Punjab: General): Mr. Speaker, Sir, I beg to make a few observations in regard to this Bill. First of all, I would like to point out that the present condition of our Income-tax Administration is indeed very distressing. In the first instance, it is true that people generally do not want to pay the tax willingly. It is in human nature that people do

not want to part with any portion of their income for any work connected with public good, and secondly they have not yet been able to realise fully *well* that now when the Government has changed and we have our own National Government, it would be a great sin not to pay what is due to the Government. Now it is the higbtime tbat the people realize tbat no crime is more reprehensible than to evade the payment to the Government of the amouut enjoined by the law. But people are not to be blamed very much for this mentality. We are very well aware that a decision was given by the Tribunals of the Income-tax Department and the High Courts in our country that if any evasion can be made by legitimate means, it is neither a sin nor an offence. This mentality is not only confined to this particular sphere, but acts like a snag in the full enforcement of the law geuerally. This is not only the decision of the Income-tax Tribuual but of many other courts having criminal jurisdiction that if any person can evade the law by legitimate means there is nothing to prevent him from doing that. There are many other reasons into the details of which I do not want to go. Every tax-payer knew that the tax which went out of his pocket was utilized to suppress his freedom. So this fact coupled with the sordid motives was the reason underlying the evasion. But tax payer also followed these devices to satisfy his moral conscience. The conditions have changed now and I want that everybody realises his responsibility and acts scrupulously in the payment of tax just as he would do in matters of religion.

Having explained this, the other point to which I would like to draw your attention, Sir, is very vital. Even today it is not considered a reprehensible act to try to escape from the payment of Income-tax; they consider it just as the people considered prior to the advent of our National Government. Similarly the officers of the Income-tax Department considered it their prestige to increase the revenues of the Government to the maximum extent possible without regard of the condition of tbe poor assessees. Their promotion solely depended on this. There is another officer the Inspecting Assistant Income-tax Commissioner above them who can make them do what he likes. Whenever there was a decrease in the amount of Income-tax collection in any district, the Income-tax Officer concerned was called upon to explain. Both practices are wrong. Well placed persons are perhaps not aware of the treatment meted out to the common people by the Income-tax Officers. Under such circumstances, it would not therefore be surprising to say that while in this Assembly we are told of very high principles, but actually we come across practices which are impossible to put up with. Tbe Income-tax Officers and Inspector have been armed with such wide powers that they can oppress anybody in any manner they like. With a view to suppress these two evils, we should eradicate such mal-practices. The most essential thing is that we should enforce such a law which should be *certain*, and should not place arbitrary powers in tbe hands of Inspectors and Income-tax Officers. And so far as the poor and middle class assessees are concerned, who cannot generally evade payment of the tax they should not be illegally coerced. The setting-up of the Investigation Commission is quite appropriate for the big people, who commit fraud. You may take whatever powers you like to deal with them, but for that too I would not like to be exercised in an arbitrary manner. Nevertheless there can be some justification in the case of those persons who commit offences which are prejudicial to the State. Power is taken to be exercised against such persons but on the contrary it is used against the honest assessees. The Income-tax Officer who exercises these powers does not discriminate between the honest and dishonest assessees. The dishonest persons manage to escape with the help of money and the honest assessees are harassed. Therefore, I would respectfully submit that the most essential thing which we should bear in mind in enforcing the law is that such powers on which it may not be possible

[Pandit Thakur Das Bhargava.]

to exercise complete control should not be given to the Income-tax Officers and Inspectors. If we see this law from this perspective, I will respectfully submit, it is far below the criterion. In regard to each and every decision given by the Investigation Commission, it has been asserted by the Honourable Ministers that this represent the decision of an expert Committee and any alteration thereof is bound to change the status of the Committee. I realize that there is no question of expertness in such a matter. All of us can very well appreciate these problems that confront us daily and which cause us considerable hardship. Those big experts who are on the Investigation Commission are not aware of the hardships to which the poor and middle class people are subjected and they do not know the manner in which these powers are exercised. They decide merely on theoretical grounds. Therefore, I will submit, Sir, that Clauses 7 and 8 should be scrutinized in the light of these three points whether it would be right or wrong to confer these powers. First of all what I have stated is that the law should be *certain*. It would be observed that Clause 7 and 8 do not fulfil the object which the Investigation Commission had in view. I had pointed out that the Commissioner should be given the powers to rectify errors of law, the Income-tax Officer should be empowered to deal with errors of facts. If any honourable member questions this, I would like to draw his attention to para. 7 at page 8 of the Report of the Investigation Commission:

"We, however, agree that it is possible to maintain that an assessment should not be allowed to be reopened under section 34 merely on the ground that the Income-tax Officer who made the assessment has misunderstood or misapplied the law or that a different view of the law or of the facts is possible. The proper remedy in such cases, if the Department considers the matter to be one of sufficient importance, is to allow the matter to be set right on appeal or in revision."

Sir, I would like to invite your attention to the words "sufficient importance" in para. 7 at page 8 of this Report. It has been further laid down in the note at page 6:

"Cases of error of law or erroneous inference of fact will no longer fall under section 34; the Commissioner must, therefore, have power to pass appropriate orders in such cases under section 33-B itself. That is also the reason why we have now provided for an appeal by the assessee to the Tribunal against the Commissioner's order."

I will respectfully submit, Sir, that the existing Sections 33(B) and 34 as they stand seem to overlap. What is the reason for empowering the Income-tax Officer and Commissioner to re-open the entire Income-tax account of a particular assessee. If it is the intention that the Commissioner and the Income-tax Officer should be authorized to re-open the cases connected with the law and facts respectively, then this is of course comprehensible. But I will submit that there is no reason why both these officers should be empowered to re-open such cases. There is therefore overlapping. The Report of the Investigation Commission for which every member eulogizes the Government does not give such a power. I cannot, therefore, understand why no provision has been made in the draft of revised Section 33(B) enjoining that only the Commissioner will be empowered to re-open the case involving points of law. Now the legislation which you are framing will be quite improper. Every Income-tax Officer will re-open the cases as and when he desires simply on the grounds of legal technicalities, and in this way there will be confusion in the entire law which would be contrary to the intention of the Report of the Investigation Commission and perhaps also against the wishes of the Honourable Minister. Therefore, I submit that the decisions contained in the report of the Investigation Commission should be carried out and the point clarified that the Commissioner will be able to institute proceedings only on points of law.

Another thing that I would like the attention of the House drawn is that this should not be enforced against the poor assessees of the lower middle

class. Just now I quoted from the Report of the Investigation Commission which lays down that unless the matter is of sufficient importance the case should not be re-opened. It has been stated at page 8:

"The proper remedy in such cases, if the Department considers the matter to be one of sufficient importance, is to allow the matter to be set right on appeal or in revision."

As I have referred to this matter I might elucidate this point that when this was accepted it was considered that this power would only be used in big cases.

But the Finance Minister who had agreed to this principle is not in his seat today and I do not know who will perform the duties of the Finance Minister tomorrow. It was agreed in the Select Committee that it will apply to big cases only. Therefore the object of one of the amendments tabled by me is that if a question of law is involved the Income-tax Officer may not be able to re-open the case. I hope that this amendment will be accepted after due consideration.

Now another thing which I want to submit is that the time-limit fixed for the re-opening of the assessment is comparatively shorter than that prevailing in other countries although their span of life is much longer than ours. The limit of eight years and four years has been proposed in this Bill. The period of eight years has been laid down in the case of an assessee who has evaded submission of the Return or has not submitted the Return. In other cases it has been fixed as four years. But in other countries such limit is fixed as six years. I feel that eight years' time-limit is very long. People do not live for such a long period. This limit should be reduced especially in respect of those persons who are not the original assessees. This is perhaps within the knowledge of everybody that the businessmen who are millionaires today become paupers tomorrow; and conversely one who is starving today and if he does speculative business, his condition becomes changed within a year. Eight or four years is a long time. I will submit that if a person dies, it will not be proper to punish his children for his crime. Therefore, I would request that this limitation may be brought down and this should not be fixed in respect of those assessees who had submitted their return honestly. I think that it is not always expedient to keep hanging the sword of Damocles for all these four years over such assessees who have not concealed their income, and against whom no charge can be levelled.

This is against the canons of justice and public policy. Sir, you may take whatever action you like in regard to the tax-dodgers. I am not a friend of tax-evaders. But I would respectfully enquire what sympathy have you shown for non-evaders for whom you shed tears. You are not fully aware of the manner in which your Income-tax Officers are working, and moreover you can realize that during this period of eight or four years they will be free to tyrannize as much as they like. With due respect, I will submit, Sir, that this is against the principles of justice. The principle of *Res Judicata* is followed in the Courts and I need not dilate much upon the provisions of Section 403 of Criminal Procedure Code.

I will like to say that the power to re-open should be exercised only when it is finally established that some mistake has been made or some new facts have come to the knowledge which were not known before and of which even the assessee was ignorant. I do not want that any person who has got to pay more tax may evade payment, but in any case such a long period for the re-assessment should not be fixed. You are giving such wide powers light-heartedly. These powers can be exercised against any assessee who may be poor and honest. If you like you may frame a new law which would apply to persons with larger incomes, but it is not proper to put in such an arbitrary

[Pandit Thakur Das Bhargava.]

measure in the ordinary law of the land which may penalize the poor. The law should be framed in such a manner that it safeguards and protects the poor and honest assessees. In fact, I have drawn your attention to such amendments which should necessarily be made in this Bill and I will discuss them when those amendments are moved. Apart from this, there are two other points to which I would like to draw your attention and that of the Honourable Minister. Firstly the law regarding Clause 4 is quite clear. The Central Government has the power to impose Income-tax, and besides them there is no other authority competent to levy taxes on the income. If the Government are in know of the fact that at a certain place double tax is levied on Income, they should remove this. In case any Provincial Government has levied such taxes, the Central Government has also got the authority to abolish and remove them. At present some taxes have been imposed in Provinces which are of the nature of Income-tax. For example, a tax has been imposed in the Punjab at present, the basis of which is that out of the total annual rental of a house, one month's rent is recovered from the landlord in the form of tax. So this is also a kind of tax on income and in this way this amounts to the payment of double tax. All such types of taxes which are levied should be removed so that the poor people be not unduly burdened.

So far as the levy of Municipal taxes is concerned, the Select Committee has very carefuly considered this and I think there is no need to scrutinize this again. This should be allowed to remain in the same form in which it was approved by the Select Committee.

With due respect I will submit that Section 46 needs to be amended. If any person has borrowed money, he cannot realize it through the agency of the Government. It will not be proper to ask him to lend on his own risk. For instance, if I have borrowed money from somebody and another person has to repay my debt or discharge the claim, then I ought to have this right to assert that I have to get money from him. I have the right to claim that I should be repaid my money or whatever is my claim so that a man who himself is entitled to recover the amount due may be able to resist such a claim of the Department and this should not be recovered from the debtor. Besides this I would like to get Section 9 also amended.

In addition to these matters, I would like to say a little more and that is in regard to the Hindu Joint Family. Sir, I have already said much on this point on the previous occasions and feel somewhat ashamed in repeating this. During this session, the Government are bringing forth a Hindu Code Bill which seeks to put the Hindu Joint Family absolutely out of existence and when this Bill is enacted the Joint Family system will be liquidated. On the one hand you want to frame such kind of legislation and on the other you say something else. Although this Joint Hindu Family system is still existing, yet I will say that I am not one of those persons who are very much enamoured of it. I think that in the present times this system has practically ceased to exist and cannot live long. Why then does not the Government and the Income-tax Department admit this fact and grant exemption to the Joint Hindu Family from the category of taxable units? If this is the state of affairs, I really fail to understand why unnecessary burden is placed on the members of the Joint Hindu Family in every such legislation.

The Honourable the Finance Minister had stated on the previous occasion that if any body claims under Section 26(A) that his family has been partitioned, he should be treated as a separated member, and his statement should be taken as sufficient. But so far no such instructions have been issued, inspite of a promise to this effect. I do not understand why while passing Bills in this House we are told that they do not contain any harmful provisions and therefore, it was no use going deep into the matter? But later on we have to

face those very difficulties which we have apprehended while enacting the measure. While alluding to the Investigation Commission on a previous occasion, the Honourable Finance Minister had stated that thirty cases in all will have to be referred to it. But subsequently, 130 cases have been detected in Ahmedabad alone and in addition to this 800 more cases have been referred. But we were told that only thirty cases were to be referred.

Sir, with due respect, I will submit that the people are utterly dissatisfied with the conditions which are at present prevailing in the country and you cannot estimate their dissatisfaction. Therefore, I will submit that the Honourable Minister should accord very careful consideration to the matters connected with the Joint Hindu Family and should take such steps as may be appropriate and useful; and these should not in any case be harmful. At the moment many such proposals are being mooted out which tend to put a heavy burden on the members of the Joint Hindu Family. It should not so happen, and such steps should be taken which may not prove harmful to the people. Keeping all these things in view, I hope that the Honourable Minister who is in charge of the Finance portfolio, will consider the matter and accept such of the amendments proposed by me as he deems fit.

Shri Prabhu Dayal Himatsingka (West Bengal: General): Mr. Speaker, Sir, the Honourable the Finance Minister has been pleased to say that the provisions which he has introduced are in consonance with the recommendations of the Income-Tax Investigation Commission. I would like to point out some of the important deviations that we find in the Bill the recommendations made by the Commission. My honourable friend Pandit Thakur Das Bhargava has dealt with some of them and he has drawn your attention to the fact that Section 33B which was really intended to give power to the Commissioner for re-opening cases if there was an error of law has been made so wide that it will overlap Section 34 and a case can now be re-opened by the Income-Tax Commissioner under Section 33B whether it is a question of fact or of law and similarly, under Section 34 a case can be re-opened by the Income-Tax Officer. I cannot understand why there should be two overlapping provisions for re-opening such cases.

There is another respect wherein the scope of Section 33B has been very much widened. The draft made by the Commission is as follows: "The Commissioner may call for and examine the record of any proceedings under Sections 23, 27 or 34 of this Act if he considers ...." and so on. Now, Sir, the clause as introduced in the Bill says: 'The Commissioner may call for and examine the record of any proceedings under this Act' thus, it is not confined to Section 23 or 27 but any proceedings or any order 'under this Act.' Now, Sir, you know in an appeal against an order of assessment under Section 23 or 27 the assessee can go to the Appellate Assistant Commissioner and an order is passed. That is section 30. Then there may be an appeal to the Tribunal. That would be perhaps Section 33. Therefore, if the words "under this Act" are used and we do not specify the power of the Commissioner to re-open cases only under Section 23 and 27, the result will be that even in cases where there has been an appeal and where the matter has been considered by the Appellate Assistant Commissioner or by the Appellate Tribunal, even then matters which have been dealt with in appeal can be touched and re-opened by the Commissioner. Where, then, are we going to make a case final? If, a matter which has gone on appeal to the Appellate authorities, if cases which have been decided in appeal, can be re-opened by the Commissioner, well rather do not give the power to the assessee to appeal. No one will have any sympathy with the dishonest assessee who evades taxes and is responsible for the higher rates of taxes. If those who evade taxes indirectly are made to pay what they should, I am definite that the rate of tax may possibly go lower. In any

[Shri Prabhu Dayal Himatsingka]

even there will be lesser burden on other honest persons. Therefore, do what you like. Take such powers as you think proper for roping in persons who deliberately and dishonestly evade taxes, but to give such wide powers which were not recommended even by the Investigation Commission does not appear to fit in with the necessities. Another aspect is .....

Pandit Thakur Das Bhargava: With your permission, Sir, may I just put a question to the Honourable Minister in charge whether what my friend says is correct, because according to me it is the Income-Tax Officer alone whose orders can be reviewed by the Commission and not those orders that have been the subject of appeal. I want elucidation on this point.

Mr. Speaker: I was just thinking of inviting the honourable member's attention to the words 'orders of the Income-Tax Officer'.

Shri Prabhu Dayal Himatsingka: That is true, but then that will be a matter for interpretation in the courts. It will be a question of interpretation as to whether orders passed in appeal by the Assistant Appellate Commissioner or by the Appellate Tribunal is not really an order by the Income-Tax Officer. If that is made clear, then of course the position becomes a bit better, but there are other Sections under which the Income-Tax Officer can assess—Section 52 or 52(a) when cases are compromised. Even those cases can be re-opened under this Section. A case where the Income-Tax Officer comes to an arrangement with the assessee when there is a prosecution or something like that, such a case can also be re-opened. Therefore, if the Income-Tax Commission recommended this power to be given only in respect of certain specified Sections, I cannot follow why the scope has been enlarged.

The Honourable Shri K. C. Neogy: In order to shorten the discussion on this particular point, I may inform my honourable friend that the form in which the Bill stands at present has received the fullest approval of the Investigation Commission and if they, at one stage, specified certain Sections in this context, they have realised that it is not right to confine the remedy given in clause 7 to any proceedings arising out of those Sections only and that any order passed under any provision of the Income-Tax Act which may involve the interests of the revenue should be open to revision under this particular clause.

Shri Prabhu Dayal Himatsingka: And whether they are on fact or on law?

Shri T. T. Krishnamachari (Madras: General): That is another point.

Shri Prabhu Dayal Himatsingka: And whether they are on fact or on law, they can be re-opened. If this House is going to accept the result of the discussions that is said to have taken place among the members of the Commission and the Department, it is for the House to see, but what I was pointing the attention of the honourable members to was that the scope has definitely been enlarged from what the Commission suggested in their report.

Then, Sir, as regards Section 34, you know that in 1939 when the Income-Tax Act was amended in a special session, the Congress Party under the leadership of the late Shri Bhulabhai Desai of revered memory were responsible for the word "definite" being introduced in Section 34. That word was not there when the Bill was introduced. My honourable friend Shri T. T. Krishnamachari was also a member then.

Shri T. T. Krishnamachari: No.

Shri Prabhu Dayal Himatsingka: I am sorry. I thought you were. On that occasion the Honourable Sir James Grigg who was in charge of the Bill

gave the assurance on the floor of the House that if the Opposition were satisfied that the addition of the word "definite" would make it sure that the Income-Tax Officers will not be able to re-open cases simply as and when they like, he would be prepared to put in the word "definite". On that basis, the word "definite" was inserted. The Honourable Minister has not given us any indication as to why it has become necessary to drop the word "definite" and to make it general. If he had given an indication as to how many cases of escapement of assessment could not be roped in because of the presence of the word "definite" we would certainly be prepared to support the Government on the draft as it has been introduced, but no such indication has been given.

Another thing that I would like the attention of the House drawn to is that there seems to be no definite difference between an honest assessee and a dishonest assessee. The dishonest assessees have been dealt with or intended to be dealt with by clause (a) of Section 34 and the honest one in clause (b). But if an assessee files a return and fi es the particulars of his profits etc. and even if he produces before the Income-Tax Officer his account books and other evidence from which material facts could, with due diligence, have been discovered by the Income-Tax Officer, even then he will be branded as a dishonest person. If you look at the explanation to section 34, it says: "Production before the Income Tax Officer of account books or other evidence from which material facts could with due diligence have been discovered by the Income-tax officer, will not necessarily amount to disclosure within the meaning of this section." Therefore, what is required of the assessee is not only to file the return, not only to produce his account books and other materials, but supply also the brain to the Income-tax Officer. What is now happening is that certain persons are able to evade the tax not because they try to do so, but because the Income-tax Officer has not got the time to apply his mind to the case or does not care to look into the account books. If the assessee has filed the return, and produced all the books of account that he has, and other material facts from which with due diligence the Income-tax Officer can come to conclusions, I cannot see how a person can be called dishonest. In view of these circumstances, I wish that the Honourable the Finance Minister will consider that there must be some stage where a case decided may be final and there must be some limit beyond which a case should not be re-opened.

Shri T. T. Krishnamachari: Mr. Speaker, Sir, I rise to support the motion made by my honourable friend the Finance Minister. In doing so I feel that the arguments adduced by my honourable friend Mr. Himatsingka are not relevant at this stage. They are really arguments that should have been advanced at the time the Bill was referred to the Select Committee. I have no idea of what my honourable friend Pandit Thakur Das Bhargava said about this Bill, though I can glean from his speech that he also went into the fundamentals of the question and I do not know if he had a right to do so in view of the fact that he was a member of the Select Committee even though he had appended a minute of dissent to the report of the Select Committee.

I would like to take up some of the points raised by my honourable friend Mr. Himatsingka. In the first place, he followed more or less the scheme of the amendments that he has given notice of, and the first thing that he tackled was about section 33-B. He holds section 33-B must be more or less confined to cases where there have been errors of law. I do not think that such an eminent solicitor and businessman like my honourable friend should not have read paragraph 7 of the Investigation Commission's Report,.....

Shri Prabhu Dayal Himatsingka: I have looked into that carefully.

Shri T. T. Krishnamachari: .....which really formed the basis of this particular

[Shri T. T. Krishnamachari]
legislation before the House. In fact, the Investigation Commission after discussing the need for expanding the scope of section 34 as it stands today, have also sought to provide for certain cases which ought not to from the point of propriety be re-opened under section 34. In fact, if section 33-B is taken out, I do not think the interests of those people whom my honourable friend seeks to represent will be well served. Paragraph 7 of the Investigation Commission's Report says: "We, however, agree that it is possible to maintain that an assessment should not be allowed to be reopened under section 34 merely on the ground that the Income-tax Officer who made the assessment has misunderstood or misapplied the law or that a different view of the law or of the facts is possible." This, I think, more or less, answers the questions raised by my honourable friend Mr. Himatsingka.

Shri Prabhu Dayal Himatsingka: Instead of being an answer, that supports what I have said.

Shri T. T. Krishnamachari: I suppose there may be different interpretations of what is written in this language which is a foreign language to all of us. As I understand the language the Commission felt that section 34 should not be used for purposes which are contemplated to be used under section 33-B and they specifically added "or that a different view of the law or of the facts is possible" and this shows that they did not mean to exclude cases which have a factual basis from being dealt with under section 33-B. In fact, if I had the misfortune of being the Finance Minister, I would have said, if the House does not want section 33-B, delete it, and nobody would be worse off except perhaps the interests whom my honourable friend seeks to serve.

In regard to section 34, it has a history. My honourable friend said that I was here in 1939; I was not. I was here in 1945 when an identical question was taken up. I am quite familiar with the arguments. In fact, I would like to mention as I have mentioned before when the Bill was referred to the Select Committee that it was the opinion of the late lamented Mr. Bhulabhai Desai that section 34 should not be left as it is in the Act. The Taxation Investigation Commission merely echoes the opinion of that well known lawyer when they say in paragraph 6 of their report: "We are unable to agree with the argument that there is no need or justification for the amendment of section 34. The 1939 legislation (as interpreted by the Courts) is unduly restrictive....." And, that is exactly the reason why they have recommended that section 34 should be amended. The very words which my honourable friends have quoted are the words which have done mischief to the revenue to be obtained through the Income Tax Department. Every legal decision has gone against the Department by reason of the fact that a Judge can interpret section 34 and hold that no definite information has now been brought to light. Section 34 as it now is reads: "If in consequence of definite information which has come into his possession the Income-tax Officer discovers that income, profits or gains chargeable to Income-tax have escaped assessment in any year....." The inability of the Officer to precisely tie himself up to this definiteness is the reason why this Commission has sought to draft a very long clause—section 34 is a very long clause—so that all points of view can be met. One point that my honourable friend has suggested is not true for the reason that the Commission has felt that a distinction must be made, as between an honest assessee by reason of the fact that it was not within his knowledge that there was any defect or mis-statement in his return should be treated in a different way and a person who has deliberately submitted a false return. I think that is a matter going into the fundamentals. When the House accepted the motion for Select Committee, more or less it gave its approval to the fact that section 34 had to be amended and the Select Committee has more or less accepted the recommendations of the Investigation Commission.

In regard to the other clauses about which my honourable friend spoke, I am glad he has raised this question of an action under section 33B being barred under certain circumstances and probably he is going to move his amendment to section 33B. The other question is regarding the explanation to section 34 (1). He said that this explanation should not be there. The explanation reads like this: "Production before the Income Tax Officer of account books or other evidence from which material facts could with due diligence have been discovered by the Income-tax Officer will not necessarily amount to disclosure within the meaning of this section." I am afraid his is an argument which will not stand scrutiny. What happens in actual practice is that very often, the Income Tax Officer wants all the account books to be produced and in the order that is issued to the assessee all possible books are mentioned. If the Income Tax Officer feels any necessity for going into the books, he goes into certain items in one or two books. If the assessee is a partner of a firm, he takes up his personal account, his drawings account and checks them up with his Bank account; one or two such items are checked. There is no obligation cast on the Income-tax Officer to conduct an entire audit. What my honourable friend wants is that the Income-tax Officer must conduct an audit with regard to all the books of account placed before him. That is the only way in which this Explanation can be avoided. I do not think my Honourable friend's friends whom he represents would like that position. If all the books of an assessee are taken by the Income-Tax Officer and notwithstanding the fact that his account has been audited and certified by an auditor they want to run right through the whole scheme, take about a month or two over it and keep all his staff there, naturally every assessee will complain; and that is the position that my honourable friend wants to be brought into existence. I would certainly recommend to the Finance Minister to take away this Explanation provided the House will sanction perhaps a lot more of staff for the Income-tax department and people will not grumble that their account books are kept with the officers for two and three months. I happen to know that these complaints are already made and people do complain that their account books are called for and kept for a long time and people do resent any meticulous examination of accounts except in so far as certain particulars are concerned, particularly when they are audited accounts. But when we resent any action by the department in this regard we cannot object to an Explanation of this sort which merely says that the fact of all the books being in possession of the Income-tax Officer, the assessee having been summoned to produce and kept on the table of the officer does not mean that there has been a full disclosure. It is open to people to say at any time that he has produced all the books and the Income-tax officer could have looked into them. That is the position. The whole question is does the mere fact of production of all books mean that all the facts have been placed before the officer concerned —the House will have to recognise that all assessments are made on imperfect data. If all assessments are to be made on after scrutiny of all data available we will have to have an enormous Income-tax Department and the harassment of the assessee will also to that extent be proportionately greater. The officers have to accept certain facts make certain cursory checks. Later on either by reason of diligence on the part of the Income-tax Officer or by reason of cross-checks of some other account revealing new information or by reason of the fact that an employee of the assessee having been dismissed is prepared to vouchsafe information, there is an opportunity for reopening the matter. And if that contingency occurs certain cases can be dealt with under section 34 as that is now contemplated to be amended. In certain other type of cases where there is justification for reopening a summary procedure is envisaged. So the position is that if you grant that section 34 has to be amended, as I think the House will grant, I think the scheme in its entirety has to be preserved. The mere question of an amendment here seeking

[Shri T. T. Krishnamachari]

to weaken the powers of the Income-tax Officer, in effect bringing back the position to what it was in the Act as it was passed in 1939 means that you are defeating the very purpose of this particular amendment, and all the work done by this House in the Select Committee will be more or less rendered nugatory. So I feel that all the arguments advanced by my honourable friend Mr. Himatsingka go to the root of the problem as to whether we require the amendment of section 34 or not. His objection is to clothing the Income-tax Officer with any powers by which he can rectify his mistakes and remedy the position so far as Government revenue is concerned. His objection is to the providing of summary revision by giving powers under section 33-B to the Commissioner in which case the House has merely to brush aside those objections because the House has already ratified the principles of the amending Bill.

Sir, I feel there is no substance in the objections raised and the Finance Minister's motion has to be supported.

श्री रामसहाय : स्पीकर महोदय : मुझे यह निवेदन करना है कि यह जो तरमीमी बिल इस इनकमटैक्स ऐक्ट में आया है उस में मुखालफ़त तो नहीं करना चाहता हूं। लेकिन मैं एक बात हाउस के सामने जरूर रख देना चाहता हूं और वह यह है कि जितनी भी तरमीमें इस वक्त आ रही हैं और जितने भी बिल अभी आ रहे हैं उन सब का मतलब हम यह देख रहे हैं कि हमारे मिनिस्टर साहबान अपने आफीसरस को ज्यादा से ज्यादा पावर्स (pawers) देने की फ़िक्र में रहते हैं। लेकिन मैं देखता हूं कि जो करप्शन (corruption) प्रतिदिन बढ़ रहा है, उस पर वह कन्ट्रोल नहीं पा रहे हैं। लेकिन फिर भी अपने आफ़ीसरस् साहबान को एक लाईसन्स के तरीक़े पर ऐसे अख्त्यारात देते जा रहे हैं जो उनको करप्शन बढ़ाने में सहायक होते हैं। अभी कल जो फैक्ट्री बिल पास किया है और मौजूदा ऐक्ट में जो सुधार किये गये हैं मैंने देखा कि उनमें लेबर मिनिस्टर साहिब ने जितने भी सुधार किये हैं वह सब के सब चीफ़ इन्सपेक्टर की मरसी (mercy) पर छोड़ दिये गये हैं ऐसी हालत में उन सुधारों का क्या उपयोग हो सकेगा यह नहीं कहा जा सकता। जहां मिल मालिक और कैपिटलिस्टस् (capitalists) बड़े बड़े आदमियों को खरीद सकते हैं वहां यह छोटे छोटे अफ़सरों को क्यों नहीं खरीद सकेंगे, यह बात समझ में नहीं आसकती है। फिर भी इस किस्म के अख्त्यारात उनको दिया जाना कहां तक मुनासिब होगा। मैं समझता हूं कि हाउस इस परिस्थिति में नहीं है कि जो अमेंडमेंट (amendmeht) हमारे सामने आये हैं उनको किसी तरह से नामंजूर करें और पास न करें। लेकिन फिर भी मैं मिनिस्टर साहब की तव्वजह दिलाना चाहता हूं, श्रीमान के ज़रिये कि वह इस बात पर गौर करें और इस बात पर अच्छी तरह से ध्यान दें कि वह किस तरह से इस बढ़ते हुए करप्शन को रोक सकते हैं। ऐसे अख्त्यारात जहां तक हो इन आफ़ीसरस् को कम से कम दिये जायं। इनकमटैक्स डिपार्ट में करप्शन के बारे में जितनी भी बातें जनता में फैल रही हैं उन सब को ध्यान में रखते हुए इस बिल में कोई ऐसी बात नहीं है जिससे यह बताया जा सके कि इतने बड़े बड़े अख्त्यारात अफ़सरों को क्यों दिये जायें। कमीशन की रिपोर्ट जरूर इस

किस्म की है कि उनको अख्त्यारात दिये जायें । मैं मानता हूं कि कमीशन ने बहुत ग़ौर करके उन सब अख्त्यारात को देना तजवीज़ किया । लेकिन फिर भी हमें यह ज़रूर देख लेना चाहिये कि इस किस्म के अख्त्यारात का नतीजा क्या होगा । यह बात ज़रूर है कि बहुत से बेईमान व्यापारी इस तरह से टैक्स इवेड (evade) करते हैं, लेकिन जब तक कि क़ानून में कोई बेईमान करार न दिया जाये, हमें उसे इमानदार ही मानना पड़ता है और जब हम उसे ईमानदार मानते हैं, तब हमें ऐसे क़ानून बनाने में इस बात का ज़रूर ध्यान रखना चाहिये कि जो इनोसेन्ट (innocent) आदमी है, वह उसकी गिरफ्त में न आसके । इन चन्द तरमीमों का यह नतीजा होने वाला है कि जो ईमानदार है, या बेईमान है उन सब के सिर पर एक नंगी तलवार आठ साल या चार साल तक लटकती रहेगी उनको यह शंका बनी रहेगी कि नहीं मालूम कब उनके ऊपर क्या खतरा आ सकता है । सातवें सेक्शन में जो तरमीम की गई है, उसमें भी जो अख्त्यारात दिये गये हैं उनके बारे में यह अर्ज करना है कि ख्वाह वह आफ़ीसरस् की ही ग़लती क्यों न हो लेकिन इस में व्यापारी या टैक्स देने वाले ही उस ग़लती को भुगतेंगे और उनके ही खिलाफ़ एक्शन (action) लिया जायगा । तो मैं पूछना चाहता हूं कि क्या यह एक तरीक़े से लाईसेन्स देना नहीं है कि आफ़ीसर्स (officers) मनमानी कार्यवाई करें । मैं हाऊस का ज्यादा टाईम न लेकर मिनिस्टर साहब की तव्वजह इस तरफ़ ज़रूर दिलाऊंगा कि वह इस बात पर ग़ौर करें कि ऐसे अख्त्यारात ज्यादा से ज्यादा उपयोगी हो सकें और ऐसे अफ़सर रखें जो इन अख्त्यारात को सही इस्तमाल कर सकें यही मेरा कहना है ।

(English translation of the above speech).

Shri Ram Sahai (Gwalior State): Mr. Speaker, Sir, I do not want to oppose this Bill which seeks to amend the Income-Tax Act. But one thing which I would like to mention for the information of the House is that we find in almost all the Bills and amendments which have been placed before us during these days that the Honourable Ministers are always anxious to arm their officers with powers to the maximum extent possible. But I notice that they are unable to control the corruption which is increasing every day, and even then they are giving powers to their officers in the form of a licence which helps them to indulge in corruption. I find from the Factory Bill passed yesterday and the amendments made in the existing act, that all the amendments which have been moved by the Honourable the Labour Minister leave the things at the mercy of the Chief Inspector of Factories. Under such circumstances, it cannot be said, as to what useful purpose will these amendments serve? It is not all comprehensible as to why the mill-owners and capitalists who can buy the big people will not be able to purchase these petty officers. How far then it would be advisable to vest them with such powers? I realize that the House is not in a position to reject the amendments which have been placed before it for one reason or the other. But even then I would like to draw the attention of the Honourable Minister through you, Sir, that he should earnestly consider over the matter and devise ways and means for checking the corruption which is on the increase. Such powers should be

[Shri Ram Sahai.]

given to these officers to the minimum possible extent. Keeping in view the feelings which exist in the minds of the people in regard to the corruption in the Income-tax Department, this Bill does not mention any justifications for giving such wide powers to the officers. The Report of the Commission is surely in favour of giving them the powers. I admit that the Commission decided to give all these powers after careful consideration, but even then we must see as to what will be the result of giving such powers? There is no doubt that there are many dishonest businessmen who evade payment of the tax in some manner. But unless he is held to be dishonest under the law, we will have to treat him as an honest person. When we treat him as an honest, we should invariably bear this in mind while framing such legislation, that the innocent persons are not roped in. The result of these few amendments is likely to be that the sword of Damocles will be kept hanging over the assessees for all these years, and they will all along be exposed to fear and danger. In regard to the amendment made in Clause (7) and the power given in pursuance thereof, I may submit that even though there may be an error on the part of the Income Tax Officer, yet the businessman or the assessee will be penalised and action will be taken against them. Is it not, therefore, may I ask, in a way, granting a licence to the officers to act arbitrarily? Without taking much time of the House, I would like to draw the attention of the Honourable Minister to this aspect and request him to ensure the best possible use of these powers and to appoint such officers who would exercise these powers in a proper way. This is all I have to say.

Shri M. Ananthasayanam Ayyangar (Madras: General): Sir, I support the motion for consideration of this Bill. Sir, various taxes are collected at the Centre and the people who pay these taxes in various forms do not complain at all about them. Under Customs *ad valorem* duties are imposed and no one complains about the decision of the officers who assess the value of the goods. From Customs we thus get 50 or 60 crores of rupees. And no one has ever made any complaint about that either in this House or elsewhere. Then there are the excise duties on matches and sugar and various other industries like tobacco, etc. There is absolutely no complaint as regards these excise duties; or if there have been complaints the assessees are not as vociferous as the income-tax assessees. But all the complaint is about this income-tax because the assessees want the right to evade but not the liability to pay. I would have stoutly opposed these powers being given if it were an alien Government. This matter was brought up when Sir James Grigg was Finance Member. The then Leader of the Opposition Mr. Bholabhai Desai was in favour of giving this power even to that Government. He was one of the foremost lawyers in India with a large income-tax practice and he knew the devices by which the tax-dodgers have been successfully evading payment of the tax. In income-tax there is an exemption up to Rs. 3,000, and people with larger incomes have to contribute. Should they not contribute? Should the poor people only contribute? The Provincial Governments levy taxes on every inch of land; land revenue is collected and there is no exemption there. But here exemption is granted to people who have an income up to Rs. 3,000 a year. There are some other persons who receive only salaries. They have no houses or lands and to the extent of Rs. 3,000 they do not pay any tax at all and at the same time the salary earners get all the benefits provided by the Government.

Having regard to the fact that more than 80 crores remained uncollected in the shape of dues last year and the year before last, the Government is pledged to appoint a special Commission to go into these matters in respect of those persons who have made enormous profits during the war period and who have failed to pay their just dues. Under these circumstances, this Bill has been brought in under a new setting where our own Government is anxious to get

more revenue by legitimate methods. Of course, there must be some safeguards. In the Penal Code there are certain sections in which punishment is provided for 7 years. Ordinarily the Magistrate's powers are limited but where even larger powers are granted, even then they do not apply the seven year rule to every case. Likewise, the officers will take care to see that the assessments have been made for a long number of years. They would also, I am sure set a limit for reopening, except in case of a glaring fraud. The present Finance Minister's predecessor when in office gave an assurance in sub-committee. There was an attempt to refuse cases for revision and only those cases could be reopened where the matter involved was Rs. 20,000. If the Honourable Minister who was then in charge was not prepared to accept such a rigid demarcation of Rs. 20,000 there might have been cases where great fraud might have been perpetrated and though the tax he was bound to pay was less than Rs. 20,000, there was no justification to leave aside such tax dodgers. That would be placing a premium on fraud. Up to an extent we are prepared to tolerate it. We are not prepared to tolerate it beyond that. Therefore, I understand the difficulties of the Department and Minister in imposing a rigid demarcation of that kind. I am sure the Honourable Minister would not allow trivial cases to be placed before the Commission or by way of revision allow it to be reopened under Section 34. I am sure he will give such an assurance to the House if such an assurance is necessary.

I would also say that the provisions in various ways have improved the present Bill and made it as harmless as possible. My friend who spoke against some of the provisions of the Bill as oppressive ought not to forget that the gentleman who presided, or who was in charge of the Bill at an earlier stage was not an ordinary commoner or poor man but one of the richest men in this country. And yet, he, Mr. Chetty, allowed those provisions to stand. He did not raise his voice against them. On the other hand we thought that we must in the interests of taxpayers, to avoid oppression, have to make certain provisions reducing their powers. He agreed wholeheartedly. Under those circumstances, we are thoroughly satisfied that the person who has to pay has to be put under those restrictions lest he should avoid payment of tax.

There were one or two other matters which arose in the Select Committee. One was as regards the question of law. I am afraid both my honourable friend Pandit Thakurdas Bhargava and Shri Himatsingka have misunderstood the position.

Mr. Speaker: If the honourable member is going on to further points, we had better adjourn and re-assemble at Half Past Two of the Clock.

The Assembly then adjourned for Lunch till Half-Past Two of the Clock

---

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. Speaker (The Honourable Mr. G. V. Mavalankar) in the Chair

---

Shri M. Ananthasayanam Ayyangar: Sir, I was referring in the morning to the powers of the Commissioner under Section 33(b). I stand corrected. I find that the Investigation Commission has suggested that interference by the Commissioners should be only on matters of law so far as revision is concerned and that reopening of an assessment already made within a period of four or eight years must be only on a question of fact. But under the Select Committee report power is given to the Commissioner to revise an assessment both on matters of law and on matters of fact. Also the income-tax officer who was responsible for the original assessment is given power to reopen an assessment both on questions of law as also on fact. It is for the House to consider whether it is desirable or not. In this respect we are no doubt going a little beyond the recommendations of the Income-tax Investigation Commission. The demarcation of the line between fact and law is very narrow. Inference from

[Shri M. Ananthasayanam Ayyangar.]

a set of facts has also been held to be a question of law. Under these circumstances even if power is given to the Commissioner to revise an assessment made by an income-tax officer both on a question of law and on a question of fact, because a lot of revenue is involved if the assessment is allowed to stand, personally I do not see any objection to the course. If any lower authority than the Commissioner is given the power to revise an assessment, it may not be acceptable but the Commissioner would not ordinarily revise trumped up cases. He will revise only in extraordinary cases where by an oversight or by any irregular procedure the income-tax officer has caused a considerable loss to revenue. So I do not see any reason why the Commissioner ought not to have that power. Likewise the income-tax officer may be allowed to re-open an assessment both on a question of fact and on a question of law. In this respect I do not think the Commission's recommendation should be the last word. They have no doubt said that hitherto there is no such provision and that only on a question of law there may be revision but it is open to us to go further and give power to the Commissioner to revise assessments both on a question of law and on fact. Personally I am in favour of the provision but it must be acknowledged that it goes beyond the recommendation of the Commission.

As regards the pecuniary limit below which the Commissioner ought not to interfere, it is not specifically stated in the Act. I am sure instructions would be given to the Commissioner and the income-tax authorities regarding that.

The two years period that is given for the purpose of revision by the Commissioner is not too long, for this reason that there may be a number of cases disposed of by an income-tax officer in each district and normally they will be looked into once a year by the Investigating Income-tax Assistant Commissioner. Wherever he finds that there are faults he has to report to the Commissioner and this will take a certain amount of time. To curtail the period of two years to one month or six months, which is the time allowed for assessees to prefer appeals would put too much strain upon the income-tax authorities. This power of revision should be exercised and not merely remain on paper and if it is to be used this period of two years is not too long. (*An Honourable Member*: "What about the suspense on the part of the assessee?") The suspense is always there for a period of four years. It is no doubt true that in the existing law it is open to the income-tax authorities to keep an assessment for a year pending for a period of four years. Even the original assessment they can keep on pending for four years. That is also a hardship. I know a case where a merchant submitted his return and he also said that he and his sons had divided from one another and on that basis he had submitted his return. The partition was not accepted for four years by the income-tax authority and at the end an assessment for all the four years was levied against him. The accounts were also not accepted by the income-tax officer. I might illustrate this with some details so that you may be able to see the hardship caused to the assessee. In the first year the man with a joint family had an income of about four or five lakhs. When he had a partition from his sons the income would be divided between himself and his four sons. The income-tax would therefore be Rs 20,000 or 30,000. On this basis he submitted his return. It is open to the income-tax officer to decide whether he should accept the partition or not but he kept the case pending for a period of four years and at the end of the fourth year he refused to accept the partition. So the man had to pay not only income-tax on his own earnings but upon the earnings of all the members of his family. At the end of four years the income-tax officer refused to accept the partition or the accounts and imposed an assessment of 20 lakhs, where normally the return that the man submitted would entail a payment of Rs. 1 lakh. What the

poor man had done was that he had deposited the admitted amount and then he was assessed and asked to pay 20 lakhs. In a district place if a man has Rs. 200 or has two meals a day he is considered richer than the man who has only one meal. So richness is rather a relative term. During the war if the man had one oil crusher he had two or three more installed and he would have earned not more than 3 lakhs. In the whole district the talk went round that this man had suddenly become enormously rich. He had not become as rich as Rockfeller. He may have earned ten lakhs or let it be even 15 lakhs. But suddenly he is asked to pay Rs. 20 lakhs. The income-tax officer was not prepared to accept either the partition or the man's return of income. He asked the district collector to realise the sum, who in his turn passed an order for the attachment of all the man's moveable and immoveable properties and all his assets in the banks were frozen and even his clothes and utensils were attached.

Now 8,000 gunny bags were sold in public auction as an attachment for 4 pies per bag. Do you dream of such a contingency anywhere? Ten motor lorries which he purchased at a cost of Rs. 10,000 were sold away for a song. His silver plates and other household things were removed to the Tehsildar's office and were sold in public auction for Rs. 1,000. Is the value of 20 lakhs worth of goods Rs. 1,000 and on top of that on the old man 65 years old and the mother 85 years old, a warrant was issued against them for paying the balance. This naturally will irritate anyone and if my friends like, Pandit Thakurdas Bhargava get up and say that is an oppressive case of legislation, I have to agree with them. As a lawyer you know that even with respect to small cases they are divided over a range of judicial officers, the Munsiff or second class subordinate judge has got pecuniary jurisdiction over Rs. 300 and not more. The other subordinate judge has jurisdiction over Rs. 5,000; then there is unlimited jurisdiction. Now with respect to judicial officers when such limits are imposed with respect to the Income-tax Officer, there is absolutely no question and he need not accept any accounts and an Income-tax Officer who draws a salary of Rs. 250 can deal with cases ranging from Rs. 100 to 10 crores, call any man to order, enter any house at any time and refuse to accept the account and on his volition impose one crore of rupees. Reopening of an assessment within a period of 4 or 8 years and not giving the assessee notice—these are no doubt the other picture before him. These are the inconveniences and that is why there has been so much opposition by members who would otherwise have gladly supported the Government. The choice is between the two, the honest man ought not to be oppressed and the dishonest man ought not to be let off. Therefore, more than ordinary prudence and care is necessary. The moment, it is said, you take a small stick and call it a son-in-law, immediately it begins to jump, that is the proverb in our parts; he arrogates all the powers to himself, oppresses the daughter and tries to squeeze the father-in-law. Likewise an Income-tax Officer, call him an Income-tax Officer—that will be enough. We poor mortals can never escape. There is no meaning in saying that every industrialist is bad or every Income-tax Officer is bad. The powers will certainly corrupt any particular man. In these circumstances, I would appeal that as early as possible and within the term of my honourable friend, Mr. Neogy he must so devise means whereby if an Income-tax Officer does not accept accounts and the assessment is beyond a particular amount, it ought not to be allowed. He ought not to be given the power. Then a higher officer should impose the assessment, should levy the assessment or decide it, and the limits of pecuniary jurisdiction must be placed over the authority of an Income-tax Officer and Assistant Income-tax Commissioner and so on. That is not purely within the scope of this Bill. Under the circumstances, I need not pursue that matter further. In view of these dangers I am only appealing to my friend in order that he may take care to see that such powers are circumscribed.

[Shri M. Ananthasayanam Ayyangar]

It is true that in section 34 accounts are to be re-opened within a period of 8 years only in case of fraud and in other cases within 4 years. My honourable friend's predecessor, Mr. Chetty said he would see to it that all assessments are made hereafter within the year for which the amounts are due or at any rate not more than two years, but why on earth should the Income-tax authorities alone keep in assessments pending with them for long periods? It is said they have not got sufficient staff or establishment with them and sometimes the assessees do not return proper accounts in time. If they have not got sufficient establishment, they must increase their staff. I do not see any reason why on account of want of staff the people should suffer. So far as the assessees taking time, the authority can on the facts available come to any conclusion. In every case progressive efforts muat be made to see that within the year of assessment, within the year of charge the assessment should be settled. In short no assessment paper ought to be kept pending beyond two years. That provision also can be made, but I only refer to it in this connection, so that my honourable friends need not be terror-stricken, but this is a very dangerous provision in the hands of small Income-tax Officers and I am sure the Honourable Minister will take all these matters into consideration and will bring in an amending Bill to rectify them. As it is, I feel that sufficient safeguards have been placed by the Select Committee and I support the motion for consideration.

Shri Satyanarayan Sinha (Bihar: General): The question be now put.

Babu Ramnarayan Singh (Bihar: General): Mr. Speaker, there has not been a full discussion.

Mr. Speaker: About half a dozen speakers have already spoken.

Babu Ramnarayan Singh: The House consists of 300 members.

Mr. Speaker: May be: I find they are practically repeating the same argument.

The question is:

"That the question be put."

The motion was adopted.

The Honourable Shri K. C. Neogy: The debate has traversed a wider ground than I could ever anticipate. In many of the speeches, the detailed provisions of the different clauses were criticised, a practice which I cannot recall to my mind as being the uniform practice of this House. I am very thankful to some of my honourable friends who are members of the Select Committee who have defended the report and they have made my task lighter on that account. There are, however, a few general points on which I should like to make a few submissions. I detected, at least I seemed I detected a sort of a note of want of confidence in the Investigation Commission, as expressed by one honourable member of the House. May I once again remind the House that this Investigation Commission has made this report in the fulfilment of the statutory obligation which this House has placed upon that Commission. It is not right therefore on the part of any honourable member in this House to challenge the authority even indirectly of such a body of persons. Sir, a good deal has been said as regards the harassment that is caused to the smaller assessee and a peculiar suggestion has come from a member of the Select Committee itself, my honourable and esteemed friend, Mr. Ananthasayanam Ayyangar, that there should be a limit, a limit of Rs. 20,000 which should represent a kind of immunity from any penal action under this Act.

Shri M. Ananthasayanam Ayyangar: I am afraid the Honourable Minister has misunderstood me. I only suggested that general instructions should be issued to the Income-tax Officers in this regard.

The Honourable Shri K. C. Neogy: It very much comes to the same thing, whether we give a charter to the tax evader in the body of the law or I give an undertaking in this House that if a person cheats the Government revenue up to Rs. 20,000, he is perfectly safe and that I am going to carry out my honourable friend's request by way of a departmental circular. I am afraid I am not in a position to give any such undertaking. Reference has been made to an assurance which my predecessor is supposed to have given on this particular point. I am afraid I am at a disadvantage in this matter because I had to take this up at very short notice only the other day and when I referred to my honourable colleague on my left, the Honourable Dr. B. R. Ambedkar, I found that according to his recollection—and my honourable colleague had presided over the Select Committee.....

Shri Bhagwan Sondhi (East Punjab: General): He was not presiding over it at that time.

The Honourable Shri K. C. Neogy: Sir, I stand corrected. Whatever it is, from the point of view of public policy and from the point of view of the reputation of this Government and of this House, I am not in a position to give any assurance of that kind. But I am prepared to give this assurance, namely, that this measure, and particularly the clause that my honourable friend has in mind, would be utilised only for the purpose of safeguarding public reveuues and that petty cases would not be raked up. This is all the assurance I can give. As a matter of fact, it would be physically impossible to delve into thousands and thousands of cases for the purpose of utilising the provisions of this particular clause. There must be some line drawn somewhere, but we must limit it to the judgment of the Commissioner himself.

Sir, reference was made to certain principles of law. *Res judicata* was mentioned, as also limitation, finality and all that. Let me tell my honourable friend who is himself a distinguished lawyer, that it would be absurd to claim that the principle of *res judicata* should be applied to a fiscal measure of this kind. This principle has never been accepted with reference to a fiscal measure of this kind in any part of the world.

As regards finality, the Investigation Commission themselves recognize that there must be some limitation to this doctrine of finality in a measure of this kind. You cannot have an absolute finality. As a matter of fact my honourable friend well knows that in many other countries of the world there is absolutely no finality of any kind in these matters. As a matter of fact the time-limit you are fixing is unknown in some systems of law.

Srijut Rohini Kumar Chaudhuri: On a point of information, Sir, the Honourable Minister said that petty cases would not be raked up. May I know what he means by 'petty cases'? They will certainly be assessable cases.

The Honourable Shri K. C. Neogy: If some persons altogether escape assessment they would certainly come within the purview of this particular clause.

Then, Sir, my honouruble friend Mr. Ananthasayanam Ayyangar indulged in jibes at the Income-tax Officers.

Shri M. Ananthasayanam Ayyangar: What does the honourable member mean? I am really sorry that my honourable friend who is a good parliamentarian and who has been here for so long should misunderstand what I said; he ought not to have done so. While supporting this measure and the powers

[Shri M. Ananthasayanam Ayyangar]

that are necessary, I only said that there are extreme cases where these things are done. I do not know, Sir, if it is proper on the part of my honourable friend to say that I 'indulged' and then 'in jibes'.

The Honourable Shri K. C. Neogy: I did not know that the word 'indulge' is an unparliamentary word.

Shri M. Ananthasayanam Ayyangar: I can also use words which are parliamentary but which are offending.

Mr. Speaker: There will be no end to that. What I understood the honourable member, Mr. Ananthasayanam Ayyangar, to suggest was—I am putting it of course in my own words—that, just as we have certain limits in civil jurisdiction namely that smaller suits may be tried by certain judicial officers and that bigger suits may be tried by men higher up in the service, similarly, I think, his suggestion was that so far as assessments are concerned, estimated liabilities to the extent of Rs. 5,000 approximately should be tried by certain Income-tax Officers, cases involving liabilities higher than Rs. 5,000 but less than say Rs. 50,000 should be tried by another class and so on; and I think he was suggesting Income-tax Officers of I, II and III class. He was making suggestions on these lines. And he said that while in civil jurisdiction, we are not conferring jurisdiction in respect of the whole subject to the lowest subordinate judge, here, instead of following that kind of principle, we are giving the fullest jurisdiction even to the lowest of Income-tax Officers.

The Honourable Shri K. C. Neogy: That is so, Sir. That is a constructive suggestion. But I had in mind the rather colourful imagery of the stick behaving as the son-in-law which he utilised for the purpose of supporting this particular suggestion. Not merely that. He took quite a few minutes in describing the acts of particular Income-tax Officers of putting up to sale property worth thousands and thousands for a few annas, and so on and so forth. But may I tell my honourable friend that this body of officials has got to do a very very unpopular duty and that they deserve well of this country?

Some Honourable Members: No, no.

The Honourable Shri K. C. Neogy: I thought that our attitude towards our own officers, who are our own flesh and blood, would have changed with the achievement of freedom.

Babu Ramnarayan Singh: No, they have not changed.

The Honourable Shri K. C. Neogy: But in reply to that argument I do not want to—I shall use again that expression with reference to myself—indulge in an exhaustive account of the very many distasteful practices which the assessees resort to for the purpose of defeating public revenue.

Babu Ramnarayan Singh: The assessees are more honest than the Income-tax Officers.

The Honourable Shri K. C. Neogy: As regards the question whether the Investigation Commission intended facts, as also law, to be brought within the purview of the proposed section 23B, my honourable friend Mr. T. T. Krishnamachari has dealt with that point, but I am afraid the argument has been lost on my honourable friend from Calcutta. My honourable friend from Madras read out a portion of paragraph 7 of the Report of the Investigation Commission where they say as follows:

"We, however, agree that it is possible to maintain that an assessment should not be allowed to be reopened under section 34 merely on the ground that the Income-tax Officer who made the assessment has misunderstood or misapplied the law or that a different view of the law or of the facts is possible."

My honourable friend did not read the rest of the paragraph. This portion really contains the genesis of the proposed section 33B. After mentioning the difficulty in providing for this class of cases under section 34, the Commission go on to suggest:

"We, therefore, prefer to give the Commissioner a power of revision."

In what cases? In the class of cases that the Commission referred to in the beginning That is to say, they say "well, it may be rather difficult under section 34 to deal with such class of cases; we therefore suggest that a power of revision should be granted to the Commissioner for dealing with such category of cases". That is really the argument which my honourable friend Mr. T. T. Krishnamachari wanted to adduce in reply to my honourable friend Mr. Prabhudayal Himatsingka.

Sir, I was rather interested to hear from my honourable friend Shri Ram Sahai about the woes of the assessees and the oppression practised on them by the Income-tax Department. I understand, my honourable friend comes from an Indian State where there has been no income-tax all these years. It is common knowledge, and I claim some amount of personal knowledge also in this matter, that the Indian States have been a paradise for the black-marketeer and the tax-dodger. It is because of the ready asylum which the Indian States have so far provided for these enemies of society that they have been able to advance some of their financial and personal interests to a certain extent. I hope that hereafter we will be getting a greater degree of co-operation from the Indian States in this matter and that this shameful chapter will be closed.

Sir, I have nothing further to say.

Mr. Speaker: The question is:

"That the Bill further to amend the Indian Income-tax Act, 1922, and the Business Profits Tax Act, 1947, as reported by the Select Committee, be taken into consideration."

The motion was adopted.

Mr. Speaker: Now we shall take the Bill clause by clause.

The question is:

"That clauses 2 and 3 stand part of the Bill."

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

Shri K. Santhanam (Madras: General): Sir, I am moving amendment No. 2. I move:

"That part (a) of clause 4 of the Bill be omitted."

Sir, I do not want to make a long speech in favour of this very obvious amendment. You may remember that in the Finance Bill a clause similar to this was incorporated. It was discussed in the Select Committee on the Finance Bill and then it was found that the implications of giving exemptions for the municipal taxes should be properly investigated before any such step could be taken.

3 P.M

Sir, this clause means that up to 20 per cent. of the rents received from urban house property may be exempted from income-tax. If you take the big cities of Bombay and Calcutta it may mean almost an exemption of 20 per cent. of the total income-tax now paid by these assessees. In these days when everyone is speaking about inflation, about the need to balance the Central Budget, of levying more taxes on the poor peasants, I think it is a wholly unwarranted procedure to lose taxes which are now coming into the Central revenues. No absolute necessity has been proved for this particular exemption. I understand there is a case pending before the Privy Council where the contention that even under the existing law this exemption should

[Shri K. Santhanam.]

be given is under inquiry. I think it is not quite proper that the Legislature should legislate when a case is under examination in the highest judicial tribunal.

Nobody has told us what will be the actual loss to the revenues by this particular clause. My own estimate is it may be anything from five to six crores of rupees; but it is only if you know the total income-tax derived from urban house property all over the country that you can properly estimate the implications of this clause. In any case, we should not hastily embark upon it. It may also mean that in order to deprive the Central Government of its revenues the municipal taxes will be stepped up. It is said in this clause—"payments which are made for services rendered or amenities supplied". Sir, the theory of municipal taxation is that almost the entire tax is for these purposes. In many systems of municipal taxation the charges for services are incorporated in the property tax itself and it will be practically impossible to separate these taxes.

Therefore, for all these reasons I move that this part should be deleted and that we should not lose any Central revenue on this account.

Mr. Nazruddin Ahmad: Sir, I have given notice of some amendments with regard to the deletion of (b). There are two amendments in the Supplementary list—items No. 1 and 2—which deal with the last part of the proposed sub-section (8) and the Proviso. So, it would be proper at this stage to move them.

Mr. Speaker: The honourable member has handed over his amendments just today?

Mr. Nazruddin Ahmad: Yes, Sir.

Mr. Speaker: I should prefer the honourable member just to consult the Honourable Minister, and if the amendments are substantially of an agreed nature I would waive the notice. Otherwise I am not inclined to waive notice in the case of amendments tabled at the last moment.

Mr. Nazruddin Ahmad: I may suggest that I may move them, and if the Honourable Minister does not accept them I will not press them.

Mr. Speaker: The point is that if he is allowed to move them, that means the waiving of the notice.

Shri M. Ananthasayanam Ayyangar: It is not the honourable member alone who is concerned—others also must know the various amendments.

Mr. Speaker: The test which I have always placed before this House in waiving notice is that an amendment proposed should be a substantially agreed amendment, if it does not come in time. Therefore, when I say the Honourable Minister, I take it that he represents generally the view of the House. That is why I said that before I waive notice, I should like to know whether the amendment is acceptable or not.

The Honourable Shri K. C. Neogy: I had hardly any time to consider it.

Mr. Nazruddin Ahmad: I was in difficulty because I did not get a copy of the complete Bill. That was my difficulty. I fully understand and realise the difficulties of the Honourable Minister; that is why I do not claim anything as a matter of right but only as a matter of grace.

Mr. Speaker: I should not be led to show him a grace that is likely to act as a prejudicial precedent.

Mr. Nazruddin Ahmad: Yes, Sir. But may I argue those points which I have in mind? They arise out of the amendments suggested by the honourable member because he refers to the deletion of certain parts.

Mr. Speaker: But the amendment refers to the deletion of the entire clause. If the entire clause is deleted he has no grievance?

Mr. Nasiruddin Ahmad: No, Sir; that will not serve my purpose.

Mr. Speaker: Then I will put the amendment before the House.

Amendment moved:

"That part (a) of clause 4 of the Bill be omitted."

Mr. Nasiruddin Ahmad: Sir, I beg to submit that this part (a) is a very necessary provision.

[*At this stage Mr. Speaker vacated the Chair, which was then occupied by Shri K. Santhanam (one of the Panel of Chairmen).*].

This is a very important and necessary part of the Bill. It provides for exemptions in certain cases of compulsory payment. In cases of house property in towns where taxes or other rates are payable, this proposed new sub-clause (viii) provides that amounts payable by the landholder to the municipal or other authorities in taxes etc. should be deducted from the amount of rent. If a man is entitled to get an annual rent of Rs. 5,000 and if he has to pay municipal taxes during the year to the extent of Rs. 1,000. the amount that he will actually get is Rs. 4,000. In all fairness this is the amount which is his income. It is never the gross income that is taken into account in income-tax; the gross income *minus* proper expenditure and allowances is the income. In the illustration the owner is entitled to an allowance of Rs. 1,000. This is what this sub-clause attempts to provide.

With regard to the Privy Council case it should be remembered that there was no specific provision in the Act and therefore there was the doubt. We are not sitting in judgment over the Privy Council case at all. The courts found a lacuna in the Act itself and so a difference of opinion arose. The proposed sub-clause (viii) removes that lacuna. I submit therefore that this is a very important and necessary exemption and a very just exemption and the amendment would be unjust and would cause hardship.

Sir, with regard to the new sub-clause (viii), the latter part of it is really mischievous. The main part of this sub-clause says that exemption should be given with regard to "any sums paid by the owner on account of local rates or municipal taxes in respect of property". Remission of this amount should be given. Then there is the important condition: "other than such portion thereof which represents payments made for services rendered or amenities supplied". I submit, Sir, that municipal taxes are paid for the purpose of rendering service. Water taxes are paid for supplying water. Latrine taxes are paid for cleaning latrines. House taxes are paid partly for repairing roads. All these are services rendered and a necessary and compulsory expenditure which the landlord has to incur and therefore this exception should not be accepted. This exception takes away what is attempted to be given by sub-clause (viii). These taxes must be fully exempted and this mischievous part should be absolutely removed.

Then there is the proviso. The proviso sets a limit to exemption to the extent of 20 per cent., but in some municipalities taxes are to the extent of 22, 23 or 25 per cent. The principle should be whatever is compulsorily payable by the landlord out of the rent must be deducted from the total income and that would give the real income and on that alone tax should be levied. Under these circumstances, if the deletion of the last part of clause (viii) and the proviso is acceptable, then I may formally move it. I should like the Honourable Minister to consider the matter.

Shri T. T. Krishnamachari: If the amendment is accepted, there is no chance of any further amendment.

Mr. Nasiruddin Ahmad: If the whole amendment is accepted, then the whole thing goes phut, but I submit that the principal amendment should not be accepted; on the other hand, the sub-clause should remain and only the mischievous part should be deleted. That is what I ask the Honourable Minister to consider.

There is, again, a small spelling mistake in the proviso. There is the word "authorize". It is spelt with the letter "z". It is usual to spell it with the letter "s".

Mr. Chairman: I suggest the honourable member may leave that alone.

Mr. Nasiruddin Ahmad: Yes, I do not move it but I only draw attention to it.

Shri T. T. Krishnamachari: Mr. Chairman, Sir, I rise to support the amendment moved, and in doing so, I would like to call the attention of the House to one particular fact which I think must be conceded by every member of this House. Since the Select Committee has reported, the House knows that the economic situation in the country has grown from bad to worse and the Government is now at pains to devise ways and means of curbing inflation. The Department estimates that if this particular sub-clause which is sought to be deleted by this amendment is allowed to remain, at least Rs. 75 lakhs would be pumped into the hands of income-tax payers which will give them additional purchasing power to that extent. If for no other reason, at least for the reason that the Government saves a sum of Rs. 75 lakhs from going into circulation and absorbs it, I think the House has to agree to this amendment.

The other fact which I urged before the Bill went to the Select Committee still holds good. My honourable friend Mr. Nasiruddin Ahmad said that the Privy Council has decided something. It has not.

Mr. Nasiruddin Ahmad: It is deciding it.

Shri T. T. Krishnamachari: Yes, it is probably deciding. Actually in the Allahabad case of Gopumal Kanyalal—where the High Court has decided that municipal taxes should be treated as expenditure and therefore should not be added to income, the matter is before the Privy Council. After the Privy Council decides, if it decides in favour of the assessee it is open to the Government to review the matter. If the economic situation of the country is by that time such that they can give this concession to the income-tax payer, then they can perhaps either accept the Privy Council's verdict. If the Privy Council decides against the assessee they can re-enact the law in such a manner that it will meet the situation should the Government still want to give this concession. It is also a fact that two other High Courts have held that the present practice is quite in order. I do not think therefore that that is a matter the House need concern itself with at the moment. The very fact of the economic situation itself is in my view enough justification for accepting this amendment.

Sir, it is not true, as my honourable friend, put it that there are no deductions so far as rents that are received are concerned. Actually, if my honourable friend recollects, at the time when he makes the income-tax return, he will find on the last page he has to give details of the annual valuation of the house, and the repairs thereon and the income-tax authorities do allow one-sixth of the rent as against repairs and where the house is rented out they allow 5 per cent. on collection of rents. There are thus certain allowances given even as it is and it is not so bad as my honourable friend Mr. Nasiruddin Ahmad pictures it to be. I think, Sir, in the present circumstances and in view of the fact that there was a general body of opinion even at the time the Bill

went to the Select Committee against this concession which is doubly reinforced by the present economic situation, the House must support this amendment.

Mr. Nazirudin Ahmad: May I ask the honourable member a question? If the country needs more money, that is a case for enhancement of the rates of income-tax. Should we try to cut down a just exemption? That. . . . .

Mr. Chairman: I do not think the honourable member is entitled to argue again. He has opposed the amendment and that is all.

Shri Prabhu Dayal Himatsingka: Sir, in so far as this clause is concerned, I have not been able to follow the argument put forward by the Honourable Mover. If the present economic conditions require that this allowance should not be made, then I think it ought to be provided that this will not be allowed. So far as the present law is concerned, the Allahabad High Court has allowed this deduction. The case is before the Privy Council and if the Privy Council upholds the decision of the Allahabad High Court, then the position will be that the amount that is paid as municipal taxes will have to be allowed as a deduction in the future assessments. Therefore, if the House wants that this municipal tax should not be allowed as a deduction to the house-owners from the income, then we ought to make a concrete provision that this will not be allowed. Otherwise, the position will be in a flux and if the Privy Council comes to the same decision as the Allahabad High Court the allowance will have to be made. The pendency of the case is no reason why if the Government be of the opinion that it should not be allowed as a deduction they should not clear it up now.

The Honourable Shri K. C. Neogy: Ever since this tax remission was announced by my predecessor, I have noticed that there has been a wide divergence of opinion in the House as regards the equities of the proposal. As a matter of fact, this particular proposal was included in the Finance Bill and the Select Committee on the Finance Bill actually turned it down on the ground that the Select Committee was not satisfied about the equities of the proposal. Later, it came to be incorporated in this Bill. As my honourable friend Mr. T. T. Krishnamachari has said, the economic situation in the country has meanwhile deteriorated. During the last Budget discussions, my predecessor was in a position to think in terms of tax relief. Now the situation is quite otherwise. From that point of view alone if from no other, we would be justified in accepting this amendment, but there is this added ground, namely, that the whole matter is under consideration by the Privy Council. Now, if the Privy Council decision is given either in favour of a relief of this kind or otherwise, it will be time enough for us to consider whether to accept the Privy Council decision or to undertake legislation to nullify its effect. That is all I can say now and for the time being I would ask my honourable friend Mr. Nazirudin Ahmad to hope for better times when we may once again reconsider the position.

Mr. Chairman: The question is:

"That part (a) of clause 4 of the Bill be omitted."

The motion was adopted.

Pandit Thakur Das Bhargava: In view of the fact that the clause has been omitted, my amendment goes automatically.

Mr. Chairman: The question is:

"That clause 4, as amended, stand part of the Bill."

The motion was adopted.

Clause 4, as amended, was added to the Bill.

Clauses 5 and 6 were added to the Bill.

Shri Prabhu Dayal Himatsingka: In view of the statement of the Honourable Minister, I do not want to move the amendment. But, now that clause 33B is being taken up, I would just like to draw the atteution of the Honourable Minister. . . . . .

Mr. Chairman: If you are not moving the amendment, you can speak later on.

The Honourable Dr. B. R. Ambedkar (Minister for Law): Sir I beg to move:

"That in clause 7 of the Bill, in clause (a) of sub-section (2) of the proposed section 33B for the words 'in respect of an order of re-assessment', the following be substituted :

'to revise an order of re-assessment made'."

Sir, the reason for moving this amendment can be explained very briefly. The words in the original clause as it stands are "in respect of" and the rest of the amendment really carries over the other words in the original clause. My contention is that the words "in respect of" are much wider than the words "to revise an order of re-assessment". There is no difference of opinion between myself and the Select Committee. The only point is that the words "in respect of" are much wider and consequently they will restrict the action of the Commissioner much more than is intended either by the Government or by the Select Committee. For instance, there may be an order which may be incidental to an order of re-assessment made under section 34, although it may not be an order to revise the order of re-assessment. Let me give an illustration. For instance, under the re-assessment made under section 34, the Commissioner will none-the-less have power to pass an order under section 45 of the Income-tax Act, which deals with the question of the right of an assessee to withhold payment. That is a section under which the Commissioner has the power to make an order that the section will apply both to an ordinary assessment under the original section 22 or under section 34 as enacted by the present Bill. Surely, it is not intended that the right of the commissioner to act under section 45 is not to be in operation merely because we intend that he should not revise an order of re-assessment when he is acting under section 33. It is to save his powers of acting in relation to orders of re-assessment made under section 34, which he is perfectly competent to do, that I propose to take away this wider expression "in respect of" and to confine the provision "to revise an order of re-assessment". There is nothing also in this amendment.

Mr. Chairman: Amendment moved:

"That in clause 7 of the Bill, in clause (a) of subsection (2) of the proposed section 33B for the words 'in respect of an order of re-assessment', the following be substituted :

'to revise an order of re-assessment made'."

Shri Prabhu Dayal Himatsingka: Sir, I had given notice of an amendment for the addition of the words "and is caused by an error of law" after the word "revenue". The Honourable the Finance Minister has been pleased to point out paragraph 7 of the Investigation Commission's report and he has expressed his surprise when I said that that refers only to a question of law. I still stand by what I said and I would invite the Honourable Minister's attention to the language. We all agree that section 34 enables cases to be reopened. There is no doubt that a case can be reopened on a question of fact. That has not been disputed at all. The dispute so far as section 34 is concerned is as to whether a case can be reopened on ground of law. Now, Sir, with this background, you please see the report which is as follows: "We, however, agree that is possible to maintain that an assessment should not be allowed to be reopened under section 34 merely on the ground that the Income-tax Officer who made the assessment has misunderstood or misapplied the law or that a different view of the law or of the facts is possible." Here, a different view of the law or a different interpretation of the facts before the officer is possible.

Certain facts are placed before the Officer and the Income-tax Officer takes a particular view of the law on those facts and that again becomes a question of law. If in such cases a mistake has been made in the application of the law to a particular set of facts, that is what is referred to in that sentence.

The Honourable Shri K. C. Neogy: You are reading something into it which is not there.

Shri Prabhu Dayal Himatsingka: That was stated in paragraph 7 of the Investigation Commission's Report: "different view of the law or of the facts", that is, law as applied to the facts.

Shri T. T. Krishnamachari: You read the whole thing, later on.

Shri Prabhu Dayal Himatsingka: "The proper remedy in such cases, if the Department considers the matter to be one of sufficient importance, is to allow the matter to be set right on appeal or in revision. As we have already observed, many of the replies received by us recognise the appropriateness of such a course. The present Act has in principle recognised the need for such a method of correction in so far as it has provided for an appeal at the instance of the Commissioner against a decision of the Appellate Assistant Commissioner."

The Honourable Shri K. C. Neogy: That is the genesis of section 33B.

Shri T. T. Krishnamachari: Hence, section 33B.

Shri Prabhu Dayal Himatsingka: Therefore, it is a question of law that is referred to. Of course, if the Honourable Minister still thinks that this is a question of fact, I leave it there.

Shri T. T. Krishnamachari: Sir, I have got only one point to make. As a matter of fact, I would like to draw the attention of the House to this particular paragraph which they would all read. It concedes that there is already a power of revision in the hands of the Commissioner, but that is restricted only in the case where there is an order of the Appellate Assistant Commissioner. It is not clear, whether in the case of an order made by an Income-tax Officer that power exists. They are giving the power under section 33B to the Commissioner. It is only regularising a position where the legal position is not quite clear. I do not think the position is materially altered by my honourable friend's explanation.

Srijut Rohini Kumar Chaudhuri: Sir, I only wanted to make one thing clear. This clause says that in certain cases, the assessment would be modified. I wanted to be satisfied that this word modification includes also that an assessment may be reduced or in deserving cases the present assessees may be declared to be illegally assessed and exempted from paying income-tax or entitled to a refund of the tax; whether the modifying includes not only reduction of the assessment, but also entire cancellation of the assessment if it is to be found in the course of the enquiry that the assessee was unjustly assessed. I think that is the object of the Bill. It is only common sense that we find that wherever there is an application for enhancement of sentence before a High Court and when the parties are asked to show cause why it should not be enhanced, and even then the man can show that he was illegally convicted, the High Court not only decreases the sentence but acquits him.

Mr. Chairman: The honourable member will see that the word "cancelling" is also there.

Srijut Rohini Kumar Chaudhuri: That is cancelling with a view to fresh assessment.

Mr. Chairman: But the right of canoellation and directiou is there

Srijut Rohini Kumar Chaudhuri: When the Commissioner finds that a particular assessee was unlawfully assessed—if he is satisfied from the records that he has been unjustly assessed—will he have jurisdiction to completely exempt him from payment of income-tax during that period?

Mr. Nasiruddin Ahmad: The House will be pleased to consider the new section 33B. It says therein that "the Income-tax Officer is erroneous in so far as it is prejudicial to the interests of the revenue", that is if the authorities find that there is no assessment, not over-assessment—that is the key; then later on it gives them the power to enhance. That is quite intelligible because we are curing under-assessment.

Then we come to the word "modifying". Our object is never to reduce but always to increase the assessment. Then there are the words 'enhancing or modifying': what is the modification in contradistinction to enhancement? We start with the theory that we should not reduce. So the word 'modifying' is ambiguous.

Then as pointed out by you, Mr. Chairman, there is "cancelling the assessment and directing a fresh assessment". But the cancellation is when the assessment is wrong and the whole thing should begin on a fresh basis. This cancellation must be read along with that.

In these circumstances, the stand taken by Mr. Chaudhuri is that the words "or modifying" is wrong in the context. It goes against the very trend of the whole section and must be removed.

I had an amendment to that effect. It was a last minute amendment to the same effect. I hope that the whole matter should be considered.

The Honourable Shri K. C. Neogy: As a matter of fact it should be for the Commissioner to interpret those words according to his judgment in the circumstances of a particular case and it may be that the "modification" may not relate to the amount of asessment in any particular instance. It may relate to certain matters of proceduro or method. For instance, certain things, like losses are shifted from ono year to another. So it would not neccssarily lead to a reduction.

Shri Bikramlal Sondhi: But that reduction is covered.

The Honourable Shri K. C. Neogy: That may not be covered. As pointed out the controlling clause is that the power of revision will be exercised only when the interests of renvenue have to he protected. That is exactly as my honourable friend, Mr. Ahmad has stated.

Mr. Nasiruddin Ahmad: That gives right to reopen. But once reopening is made, then there is the power to protect.

Mr. Chairman: So long as the Court is there, it is for the Court to interpret.

Shri Bikramlal Sondhi: What is the idea?

Mr. Chairman: The Honourable the Minister has already made that clear.

Srijut Rohini Kumar Chaudhuri: Does the word "modification" entirely preclude the idea of 'reduction'?

The Honourable Shri K. C. Neogy: I say the whole thing is controlled by the words "In so far as it is prejudicial to the interests of the revenue."

Pandit Thakur Das Bhargava: So far as the purpose of section 33B goes, the Commissioner can only reopen the assessment. He can look at the case only if he finds *prima facie* that the order is erroneous in so far as it is proju-

dicial to the interests of the revenue. If he finds this, he has to give an opportunity to the assessee of being heard and after making or causing to be made such enquiry as he deems necessary he has to pass the final order. After hearing the assessee he can come to a conclusion that as a matter of fact his previous idea was wrong. He can come to the conclusion that as a matter of fact the order of the Income-tax Officer was wrong or was quite right. He can come to the other conclusion that it was neither wrong nor right. But he has not to come to the conclusion at the final stage that the order of Income-Tax Officer is prejudicial to the revenue. All that he has to see after he has heard and made the enquiry is that he makes a just order. There can be no law which would say that he could pass the order of enhancement only. . . .

Mr. Chairman: As the honourable member must know, there can be no speech after the Finance Minister has spoken.

The Honourable Shri K. C. Neogy: There is no intention on the part of Government to circumscribe the powers of the Commissioner for interpreting this clause. After all it may be a matter for interpretation by a properly constituted judicial Court.

Pandit Thakur Das Bhargava: What are we here for?

Mr. Chairman: The question is:

"That in clause 7 of the Bill, in clause (a) of sub-section (2) of the proposed section 33B for the words 'in respect of an order of re-assessment', the following be substituted :

'to revise an order of re-assessment made'."

The motion was adopted.

Mr. Chairman: The question is:

"That clause 7, as amended, stand part of the Bill."

The motion was adopted.

Clause 7, as amended, was added to the Bill.

Mr. Nazirudin Ahmad: I had a drafting amendment into which the draftsman may look.

Pandit Thakur Das Bhargava: With your permission I would like to speak on this clause also if you will give me another opportunity to speak when the clause is put to the House.

Mr. Chairman: The honourable member may speak afterwards.

Pandit Thakur Das Bhargava: Sir, I move:

"That in clause 8 of the Bill, in part (b) of sub-section (1) of the proposed section 34, after the words and figures 'of section 22', occurring in line twelve, the following be inserted :

'and such further particulars as constitute the basis of giving such notice'."

A perusal of clause 8 would indicate that the clause has been materially altered and the real objections which are taken to the present law under section 34 have been removed. But one thing which does not seem to be clearly realized is that it has been divided into two parts (a) and (b). So far as these are concerned, they contemplate two kinds of cases: In the first place cases in which we can say that they pertain to those assessees who have not been fair towards the Income-tax Department: in regard to (b) cases of honest assessees who can come within the mischief of the section because of honest mistakes. But in regard to both the law requires that a notice might be served on them and according to the present section the law is that the notice, like the one to be served under the old section 22, might be sent to the assessee. This amendment seeks to say that the notice should contain such further particulars as would constitute the basis for giving notice.

In regard to the case of honest assessees, my claim is that according to the position propounded in the report as we have understood it, they have not been

[Pandit Thakur Das Bhargava]

dishonest. As a matter of fact they have not given inaccurate particulars in their returns. If any new information has come to the Income-tax Officer and he has sought to give notice to that assessee, it appears that that new information is available to the Income-tax Officer alone. The assessee does not know what is at the back of the mind of the Income-tax Officer. When a notice is being sent it is but fair that the man should be apprised of the new information in the possession of the Income-tax Officer. In all cases under (b) the presumption is that he does not know why he is proceeded against because the information is not with the assessee, it is with the Income-tax Officer, so that if the notice goes with the particulars of information he may come prepared to meet the new information which is in the possession of the Income-tax Officer. When a person is charged he has to know what he is charged with. There must be a charge sheet. Even so in regard to income-tax cases the assessee must be given to understand what he has to meet when he comes before an Income-tax Officer. Therefore I have suggested that such further particulars as are known to the Income-tax Officer should be entered in the notice. It may be said that the man would take advantage when he is warned beforehand and be may come prepared with his defonce. But as soon as the man comes before the Income-tax Officer the case is not decided. Nothing will be lost if in the notice itself such new information is mentioned beforehand so that the assessee may come prepared. Ordinary canons of justice require that this information should be entered in the notice when it is sent to an assessee so that he may come prepared.

Mr. Chairman: Amendment moved:

"That in clause 8 of the Bill, in part (b) of sub-section (1) of the proposed section 34, after the words and figures 'of section 22', occurring in line twelve, the following be inserted:

'and such further particulars as constitute the basis of giving such notice'."

Shri T. T. Krishnamachari: Sir, I have got every sympathy with my honourable friend who seeks to enlarge the rights of the assessee by introducing appropriate words in the appropriate place in this clause but I think the Honourable the Finance Minister will not be misled by the anxiety of my honourable friend Pandit Thakur Das Bhargava. I would invite my honourable friend to read section 34 as it is today. It reads:

"If in consequence of definite information which has come into his possession the Income-tax Officer discovers that income, profits or gains chargeable to income have escaped assessment in any year.....the Income-tax Officer may.....serve a notice containing all or any of the requirements which may be included in a notice under subsection (2) of section 22 and may proceed to assess or re-assess....."

Section 34 as it is at present, as the House has conceded, is very restrictive in its scope and does not put any obligation on the officer to disclose his hand when he asks an assessee to file a new return. What my honourable friend wants is that in spite of the restrictions in clause 34 we should extend a concession not contemplated by section 34 at present. It is no doubt true that at some time or other in the course of the investigation in regard to an assessment the Income-tax Officer will have to disclose all the facts. He might say to the assessee "You have done this: these are the facts that have come to light since I or my predecessor, as the case may be, made the assessment and these are the facts on which I want your explanation." That is the position which would obtain even under section 34 as it is now. Now my honourable friend wants to prepare the assessee's case by handing over the charge sheet to him even before he files a return. If he is an honest assessee and he feels that he has probably left out some facts or not scrutinised his accounts carefully.....

Pandit Thakur Das Bhargava: In case the assessee does not know?

Shri T. T. Krishnamachari: His *bona fides* are always secured; he will get the benefit contemplated. At any rate the assessee will ultimately know what is wrong with his return and he might explain that it was a *bona fide* mistake, that it has escaped his notice or that he had not seen the particular item in the book and so on. Naturally the provisions of the law as we now propose to enact it will apply as it has to apply in the case of honest assessees. This is a concession that goes beyond the section as it is today. If you ask the Income-tax Officer to disclose all his cards, this is not what was contemplated even in 1939 with all the array of forces gathered against the Government in those days. We would be neutralising the effect of section 34 if we accept my honourable friend's suggestion and we cannot blame the department if it does not rope in many of the assessees. This is going beyond section 34 of the Act as it is today and the present provision does not make any departure in the manner of serving the notice or in the context of that notice. Sir, the amendment proposed by my honourable friend must be rejected.

The Honourable Shri K. C. Neogy: Sir, I need only add a word in continuation of the argument made by my honourable friend Mr. T. T. Krishnamachari. It is well known that the reason for this amending measure has arisen because of the defective terminology of the present Act, particularly section 34. Section 34 required definite information to come into the possession of the Income-tax Officer in order to enable him to act under that section. Now that terminology is being deliberately omitted. When in the absence of definite information in his possession the Income-tax Officer could not proceed. the section did not require the definite information to be put into the notice to be served on the assessee. Although definite information was the *sine qua non* of action under section 34, the notice was not expected to contain any enumeration of that definite information. When we are doing away with the necessity of there being definite information at the disposal of the Income-tax Officer as a condition precedent to his taking action under the new Act, my honourable friend wants not merely that there should be definite information but that that definite information must be put into the notice to be served on the assessee. I think I need not say anything more on the subject. Sir, I oppose the amendment.

Srijut Rohini Kumar Chaudhuri: Sir, on a point of information.

Mr. Chairman: The Honourable Minister has replied to the debate and there is no occasion for further discussion.

Shri M. Ananthasayanam Ayyangar: Sir, it is not as if all people have been exhausted when the Honourable Minister gets up and speaks. The Minister did not make the motion, it is a motion by my honourable friend Pandit Thakur Das Bhargava and the mover has always the right of reply. The Honourable Minister must wait until all the speakers are exhausted.

Mr. Chairman: Nobody rose up and that is why the Honourable Minister got up to reply. If the honourable member's suggestion is adopted it will mean that the Honourable Minister will have to speak after every member has spoken and the debate will go on indefinitely.

Shri M. Ananthasayanam Ayyangar: Sir, on a point of order, it is open to the House to ask that the question be put but it ought not to be open to the Minister himself to cut short the debate at any time he likes. Otherwise the freedom of debate will disappear if the Minister were to regulate the debate by getting up and cutting short the discussion. . . .

Mr. Chairman: It is not for anyone except the Chair to regulate the debate. It is expected that the Chair will first see that the other members are given full chance before calling upon the Honourable Minister to reply. That was what I did. But no member rose up and the Honourable Minister has replied and if the debate were to be reopened again there will be no end.

Srijut Rohini Kumar Chaudhuri: I want to know, Sir, if the notice does not contain any detail, how is the assessee going to answer the queries after four years if the matter is raked up then and what he will do if the substance of the information is not given to him and what grounds will he put forward before the Income-tax Officer?

The Honourable Shri K. C. Neogy: The fact is presumed to be within the knowledge of the assessee; it is a question of suppression of facts.

Shri M. Ananthasayanam Ayyangar: There are two kinds of assessees. Certainly the thief knows what he is doing. Regarding the other where on account of the inadvertance of the officer himself, the matter is different.

The Honourable Shri K. C. Neogy: He will, I take it, re-examine all his papers and, as an honest man come to the Income-tax Officer to be further enlightened on the subject.

Shri M. Ananthasayanam Ayyangar: A very good standard of morality.

Pandit Thakur Das Bhargava: With the permission of the House, I would like to withdraw my amendment.

Mr. Chairman: Has the honourable member leave of the House to withdraw his amendment?

The amendment was, by leave of the Assembly, withdrawn.

Prof. K. T. Shah (Bihar: General): Sir, I beg to move:

"That in clause 8 of the Bill, to the proposed section 34, the following new sub-section be added:

'(4) No action taken under sub-section (1) of the section shall be called into question merely on the ground that certain conditions were not fulfilled before the issue of the notice under that sub-section'."

Sir, I will not take very long to commend this motion to the House. This is intended to carry out the spirit of the report of the Investigation Commission and I believe it will help to smoothen as well as make more efficient the administration of the Act. It has been the common experience that the courts have interpreted the language of the section in a very restricted manner and therefore, purely on technical grounds and actually assessees have escaped taxation or have been charged at lower rates or otherwise benefited, if it was not the intention of the Act to benefit. The honest assessee has no ground to be afraid of this provision because not only at the time when the recorded reasons are to be reviewed has a chance of appeal or enquiry, but also because he has got all the information in his power and if any information that the Income-tax Officer has on which he bases a notice for re-assessment or pending the case, then it would be for him to show that the information in the possession of the Income-tax Officer is either wrong or misleading. In any case he is not precluded from having recourse ultimately to an appeal, if necessary, but in so far as it is intended to represent any people who evade taxation, I think that the amendment here proposed would help to smoothen the administration of the Act. I do not desire indeed that honest assessees should be needlessly harassed but there is, as I see, nothing in this provision which would cause unnecessary harassment to the assessees who have properly kept their books and produced other information that is relative to the subject. I therefore commend this motion to the House.

Mr. Chairman: Amendment moved:

"That in clause 8 of the Bill, to the proposed section 34, the following new sub-section be added :

'(4) No action taken under sub-section (1) of the section shall be called into question merely on the ground that certain conditions were not fulfilled before the issue of the notice under that sub-section'."

Srijut Rohini Kumar Chaudhuri: Mr. Chairman, Sir, I rise to oppose the amendment which has been put before the House. Of all the legislative provisions in this world, I do not think there can be any more indulgence shown to the officers of any Government than this clause 8 and to stretch it further and make it all the more arbitrary, is, I think, not desirable. Sir, I can quite understand an Income-tax Officer not assessing or making a low assessment with regard to a person who has not submitted his return, although I do not see why it should be so, but I cannot understand why we should pay so much premium to incompetency of our officers because they, not only the Income-tax Officer, but also the Income-tax Commissioner have failed to make a proper assessment. Why should you a low people to wait for four years to enable them to rectify their mistakes. What is the explanation for this indulgence to our officers? Is it because they should have a continuous and perpetual control over their assessees? We have always found that in a particular year if a man is liable to be assessed to income-tax, he takes all sorts of trouble to get himself out of the assessment altogether or to have his assessment reduced. He incurs expenditure and a lot of it both inside the office and outside the office and in courts of appeal—he has got to do it. After all this, certain conclusions are arrived at and a certain amount is fixed as assessment and this amount can be revised on a future date, that is to say the sword of Damocles will have to be kept hanging over the assessee for all these 4 or 8 years. Is it right or reasonable? What is the explanation for it? There is only one explanation, which my honourable friend the Minister has given expression to in this House. It is because these Income-tax Officers, Commissioners and all the rest of them have suddenly become one of our flesh and blood now. They are all there. The water they had in their veins before this new regime came in had suddenly been converted into blood, All the bones and skinny Physiques which they had have suddenly become converted into flesh. That is the possible reason why all this indulgence has been given to the Income-tax Officers. To have the Damocle's sword hanging for 8 years is something which cannot be contemplated in any legislature. It can be done by dictators sometimes, but not by a legislature, not by an author of a legislation. That is quite out of place at least for the Honourable Minister to bring such a piece of legislation to this House and to go still further at the suggestion of my honourable friend, the mover of the amendment is something if I give my opinion, it will be going too far and for that reason I oppose it.

Pandit Thakur Das Bhargava: Sir, I oppose this amendment with all the vehemence and emphasis at my command. This motion, if carried, would mean that those safeguards which the law provided or the Select Committee provided or even the report of the Investigation Commission provided will be taken away. I am afraid, Sir, that the present section 34 is not properly appreciated and with your permission, Sir, I will just explain how I view this amendment. The effect of this amendment in regard to clause (a) is, it is absolutely clear to my mind, that the question of old law about 'definite information etc. etc.' which was complained of by the report of the Investigation Commission has all been taken away. Now there is no question of 'definite information etc. etc.' If the Income-tax Officer has 'reason to believe' according to the present revised section—the mere fact that a person did not give a return is enough to attract the provisions of clause 34. There is no question of 'definite information.' In regard to this aspect of the debate, Sir, I have heard from the Honourable Minister also words to the effect and he is also under the same misapprehension. In my humble opinion, the clause is divided into two parts, (a) relates

[Pandit Thakur Das Bhargava]

to dishonest assessees or tax evaders and clause (b) does not relate to them, so far as the first 3 or 4 lines are concerned. In regard to (a) the question of definite information does not arise, but in regard to (b) the question of definite information arises. This is only for safeguarding clause (b) in regard to honest assessees. If, according to the amendment of my friend, this safeguard is also taken away, it will mean that a *carte-blanche* is given to the Income-tax Officer. He can proceed in any manner he likes because after all he is of the same flesh and blood, as we have heard, of which the Honourable Minister is made.

4 P. M.

In regard to the Report of the Investigation Commission much has been said that it is a statutory body and therefore nothing can be said about it; and it was said that it is a sacred thing. My humble submission is that nothing is sacred. Only justice is sacred. It is absolutely wrong to suggest to us that since an expert Commission have given a report therefore all that they have said is final.

The Honourable Shri K. C. Neogy: Is my honourable friend speaking on the amendment?

Mr. Chairman: It would be better perhaps if the honourable member finds out whether the Honourable Minister is going to accept the amendment.

The Honourable Shri K. C. Neogy: I am opposing this amendment also and I wanted to leave that task to my honourable friend. But I did not know that he would be making a third reading speech.

Pandit Thakur Das Bhargava: If my honourable friend had heard me fully he might perhaps have altered his opinion. After all it is premature to come to conclusions before hearing everything. I was just submitting that as a matter of fact even the Report of this Investigation Commission did not go so far as this amendment goes, and that even that safeguard would be taken away. Then I was submitting about the sanctity of the Report. Have we not just heard that the commission said that in matters regarding law the Income-tax Officer is not to be armed with any powers? Other members were pleased to refer para. 7 on page 8 of the Report. I beg to refer you to page 6, to the Note, where they clearly say that so far as the Income-tax Officer is concerned he is not to be armed with any powers where the question of error of law is concerned, and in regard to facts alone he has got jurisdiction. In regard to law also they clearly state in the Note that cases of erroneous inference of fact will no longer fall under section 34 and therefore the Commissioner is given powers under section 33-B. If the statement of my honourable friend is correct, that the Commissioners have changed their opinion, I will only say that such are your experts who change their opinions so easily. You know how the High Court speaks about experts and I have to submit that so far as experts are concerned, their opinions usually lean in favour of the opinions they have already expressed. Therefore it is not a question of experts etc. We know how the Income-tax Act is administered and how the Income-tax Officers work. I therefore think that all the safeguards which can be put into this section you will be perfectly justified in putting. My regret is that we are not putting all the safeguards because the Government does not want them to be put in. If you take away even this one safeguard I think it will be nothing short of a tragedy.

The Honourable Dr. B. R. Ambedkar: I am afraid that the amendment moved by Prof. K. T. Shah cannot be accepted. I think it has to be appreciated that the Select Committee had to deal with two difficult situations. One situation was that which arose due to the provision in the existing section 34 which said that no action under section 34 would be taken unless there was a positive discovery of facts which would give ground of action for the Income-tax Officer to levy tax on income which had as a matter of fact, and undoubted-

ly, escaped. That section 34. as it stands now, completely crippled the action of the Government and income which had been deliberately concealed or which had escaped assessment due to the negligence either of the Income-tax Officer or of the assessee was not permitted to be tapped again. The Select Committee did not want that contigency to continue. At the same time the Select Committee did not want that the Income-tax Officers should have a *carte-balanche* for taking wanton action which may either be directed against a political opponent or may be purely personal, arising out of prejudice or conflict between an assessee and an Income-tax Officer. The Committee therefore found out a *via media* and that *via media* has been embodied in the section 34 recommended by the Select Committee. That *via media* consists of two limitations upon the action of the Income-tax Officer. One is that he must have reasons to believe that income has escaped assessment. The second is that his opinion that income has escaped assessment must be endorsed and sanctioned by the Commissioner who is the highest officer in charge of the administration of Income-tax. It is only when both these conditions are satisfied that action under section 34, as now drafted, can be taken. Prof. K. T. Shah's amendment would nullify the two provisions which have been introduced by the new section 34. If those provisions were nullified I think the fears that have been expressed on the other side by representatives who have pleaded the cause of the assessee—that there has already been enough harassment of assessees—would be considerably strengthened. Government does not propose to give any ground for any such suspicion. I therefore submit that the provisions as they stand are a sound and reasonable compromise between the two parties to re-assessment, and I therefore suggest that Prof. K. T. Shah's amendment be not accepted.

Prof. K. T. Shah: I would like, with the permission of the House, to withdraw my amendment.

Mr. Chairman: Has the honourable member the leave of the House for withdrawing his amendment?

The amendment was, by leave of the Assembly, withdrawn.

Pandit Thakur Das Bhargava: I want to speak on the clause 8 itself. I am afraid that if this clause is passed as it is, it will mean a very great harassment to the honest assessees.

The Honourable Dr. B. R. Ambedkar: Why should honest assessees be harassed, I do not understand.

Pandit Thakur Das Bhargava: I shall just state the position. Suppose there is an honest assessee and he has filed the return and given all the particulars. He belongs to Delhi, and lives under the very nose of the Central department and the seat of the Central Government. For the first four or five years his case is not decided. May I humbly submit for the consideration of this House that there are many cases in Delhi which are pending for the last four or five years. Then there are eight years again—in the case of honest assessees there are at least four years. Then you have the provision that if a notice is issued, another year he has to wait, so that a man has to lie in suspense for nine or ten years. Is it not harassment? What else is it? In regard to the original assessee at least, that man can say 'I filed the return. I may have made a mistake, let me not be penalised'. But what will you say to his children if he dies after two or three years? Then his children will be in suspense for seven years. Is it not harassment, I ask? This is not all.

I am not speaking of such hypothetical cases. I can challenge the Honourable the Finance Minister if he disputes my statement that even now in Delhi there are many cases pending for the last four or five years without being disposed of. I don't know about the rest of India.

[Pandit Thakur Das Bhargava]

Everybody is afraid of speaking about the tax-evaders and the tax-dodgers; but do we not defend the murder cases every day? They should be fairly dealt with; even a top tax-dodger and evader should be dealt with suitably according to law. As a matter of fact, the real height and criterion of justice is that you meet out justice even in very bad cases. Now, what are the words used for such cases? According to sub-clause (a), the words are—

> " . . . if there is omission or failure . . . to disclose fully or truly all material facts."

May I humbly inquire whether it cannot be said even about an honest man that he has failed to disclose fully and truly all material facts? Who will decide what is a material fact and who will decide whether the fact is totally disclosed or not? The honest man may not consider a fact material and the totality of disclosure is a question of opinion. Therefore, the substitution of these words "disclose fully and truly all material facts necessary for assessment" by the words "dishonestly or fraudulently" is essential. As a matter of fact, cases of recusancy can be brought to book under the ordinary law and they are liable to penalty under Section 28. It is not fair to use these words 'truly and fully' when their implications are susceptible of various interpretations.

I therefore sent a very innocent amendment that the words "dishonestly and fraudulently" must be substituted, but the Finance Minister has not seen his way to even consider an amendment of that sort.

Similarly in regard to part (b). It is the Government's case—not my case —that this refers to cases in which the question of an honest assessee comes. I can say that the Government have accepted the provision unless there is information in the possession of the Income-tax Officer, he is not to be proceeded against. What is the information? It may be the same information which be possessed before and it may be a case of review only. When I made my speech on the first amendment of mine, I made a reference to the principle of *resjudicate* and the Honourable Minister only ridiculed me when be said that the systems of all countries have provisions for reopening of assessments. I quite agree. I never said that reopening should not be allowed. But I only submitted that the principle of *resjudicate* shows that there is a certain finality. Now all finality has been taken away. Even the Investigation Commission reported that in questions regarding law, the Income-tax Officer should not be allowed to have bis way; but here we do not find any reference to that aspect of the case; he is perfectly entitled even to proceed on the basis of information which he already had when be made the first assessment! My humble submission is that justice demands that unless and until it can be proved in regard to the information that it is new, that it is information which was not in his possession before the re-assessment, the Income-tax Officer should not be armed with such powers.

As regards tax-evaders, you may do whatever you like, but in regard to these honest people you must have the power given to Income-tax Officers in such a manner that they may not be able to harass the income-tax assessees. The Honourable the Law Minister is rather surprised to hear from me that there is harassment. If only he had known half of what we know of what is really happening . . . .

The Honourable Dr. B. R. Ambedkar: I did not say I was surprised—I rather accepted the fact.

Pandit Thakur Das Bhargava: I am sorry I said he was surprised: it appears he is of the same view as myself, that there is a great amount of harassment of assessees. I hope he will tell his friend to his right that it is so. I humbly

submit to the Honourable the Finance Minister and the Honourable Law Minister that they should include in this clause such safeguards as would at least protect the honest assessees. Such safeguards have been indicated in so many amendments.

The Honourable Shri K. C. Neogy: There is Proviso (i).

The Honourable Dr. B. R. Ambedkar: And the opening words.

Pandit Thakur Das Bhargava: I did not touch upon this Proviso (i). Since it has been just mentioned I will make a reply to it when I come to it later on.

I was submitting that after all, in regard to this kind of assessee, the income-tax authorities have got absolutely no reason to withhold justice from him. Supposing you find on re-assessment that he was assessed rightly and that something more was taken away from him. Logically if it is found in respect of the honest assessee that the original assessment was much larger than what it ought to have been, he should be allowed a refund. This provision has not been introduced in this clause. I submitted an amendment to this effect. May I beg of the Honourable the Law Minister and the Finance Minister to tell me on what principle they want to keep that money out of his pocket and as to how they are entitled to it? They ought to refund this money—not only that money but interest also and express regret that their officer mulcted him in a certain amount which was not due. This is bare justice but the Honourable Ministers are disregarding this fair demand.

They say that the safeguard is there in so far as the Commissioner has been given power to satisfy himself that the reasons recorded are all right. This is the only safeguard. It means, out of the frying pan into the fire! Who are these gentlemen? There is the Income-tax Officer and above him is the Inspecting Assistant Commissioner and then there is the Commissioner. What is this Inspecting Assistant Commissioner? You fully know it—I need not describe, but I once described him in this House as an invisible ghost—he never appears before the assessee, the assessee never appears before him. He directs the Income-Tax Officer to assess the man in the absence of the assessee and he pulls the wire from behind and manages the whole thing. The papers will go above with his recommendation. He is already more than satisfied for in fact he may have initiated the move or been its efficient cause. Suppose the reasons are not given, will anybody care to go into the question? Will the Honourable the Finance Minister be able to go into the question whether the reasons are good or bad. And suppose he gives the certificate as a matter of routine as such certificates are always given? First of all, the matters are discussed at high level with the Commissioner and then the report goes saying, "For reasons recorded I am satisfied . . .". He does not give any reasons. Where is the safeguard? Will anybody care to look into it? Will any judicial officer look into it? After all, we know that children, nations and departments have very little conscience. Therefore, as routine work this certificate of satisfaction will be given as a matter of course and it will not be a proper safeguard.

The whole scheme of the Act seems to be that the honest assessee should be protected but in practice he will not be protected. In fact I am not satisfied with the report of the Investigation Commission when they state that though they have sympathy with the honest assessee, yet the fact that escape of income is there whether honest or dishonest and therefore they must proceed against the honest assessee also in the same way. It is there that we differ. I differ from the Commission that in case it is ultimately found that the assessee has been charged more than what he should have in fairness been charged the refund should not be allowed. I have not been able to understand why the refund cannot be made. When there is no tax-evasion, and a person has been over assessed they look at the question from the fiscal

[Pandit Thakur Das Bhargava]

point of view, and not the human point of view, of the assessee. I therefore beg to submit that in my humble opinion the safeguards provided are not enough. I would have liked if the real position is taken into consideration and safeguards introduced.

Shri M. Ananthasayanam Ayyangar: Sir, I would like to say a few words. I am not agreeing with my friend Mr. Bhargava. When the Honourable the Law Minister has not pressed his amendment for substituting the Commissioner who has to approve of the recommendation of the Income-tax Officer sent to him in writing for reopening of cases, I think the Section as it is is sufficient safeguard against improper or unreasonable reopenings. The power is now given to a Commissioner to find out the proper cases after he is addressed on that subject with proper and cogent reasons by the Income-tax Officer in writing. That is a sufficient safeguard which must satisfy my honourable friend Mr. Bhargava.

As regards set-off, my feeling is this. Whenever an assessee feels aggrieved by improper assessment, it is open to him to prefer an appeal, a second appeal, and he can take it to the Tribunal. Now, he wants to take advantage of the position when on account of certain fraud he committed the case is reopened. He wants to take advantage of that position and try to recover. There is an impersonal person. There is a regular person who can take care of his interests. That is the individual. He can prefer an appeal, a second appeal and so he can go on. But in a round about way he wants to take advantage of it. What will really happen is this that if the provision is made, no Income-tax Officer will ever attempt to re-open a case, because if he is not able to detect any fraud and recover some more money for the Government he will have to shell out something to the other side. Thus the object of this very section will be frustrated. So I think the balance of convenience is in favour of retaining this clause as it is.

The third point, as I understand my Honourable friend to have raised by an amendment which he has not moved, is with respect to sub-clause (iii) of clause (b) where the assessment made or to be made is an assessment made or to be made on a person deemed to be the agent of a non-resident person, the period of 8 years and 4 years is reduced to 1 year. My friend wants that the provision for re-opening, the period of limitation for re-opening in cases where the assessee is dead, his legal representatives have to pay that, in that case also it should be reduced to 1 or 2 years. I personally feel that this is a concession which can be made as a concession is made in favour of an agent, but there is no amendment moved and so let us see if this works and there will be time enough for us to see whether that other provision will be necessary later on. After all, we are by way of amendments amending Acts not once a year but twice or thrice also in a year. So you will also see another amending Bill likewise whenever there is a case of hardship. We will certainly be able to persuade the Finance Minister to bring forward another Bill. As it is, let us be satisfied with what has been done and there is ample provision by way of safeguard in allowing the Commissioner alone to give permission in proper cases. I would like that this clause should be accepted as it is.

Mr. Chairman: The question is:

"That clause 8 stand part of the Bill."

The motion was adopted.

Clause 8 was added to the Bill.

The Honourable Shri K. C. Neogy: Sir, I move:

"That in clause 9 of the Bill, in the last paragraph of the proposed sub-section (5A) of section 46, between the words 'for' and 'on' in line three, the word 'or' be inserted."

Mr. Chairman: The question is:

"That in clause 9 of the Bill, in the last paragraph of the proposed sub-section (5A of section 46, between the words 'for' and 'on' in line three, the word 'or' be inserted."

The motion was adopted.

Mr. Nasiruddin Ahmad: Sir, I have some comments with regard to this clause. Sir, this clause inserts a sub-section (5A) after sub-section (5) of clause 46. I find there are no less than six paragraphs and the first one is numbered (5A). I should submit that the rest of the paragraphs should also be numbered as sub-sections (5B), (5C) and so on. There is of course sub-section (6). It is unusual in an ordinary sub-section to have several paragraphs without bearing any number. I have carefully examined them. They relate to different subjects. It would therefore be convenient to number them for the purpose of reference. I have tabled an amendment to that effect, but if this is regarded as technical amendment the draftsman may look into it and carry out the consequential amendments which also I have indicated.

Pandit Thakur Das Bhargava: In regard to this clause, I only beg to draw the attention of the House to clause 5A, last para.—clause 9. It says:

"Where a person to whom a notice under this sub-section is sent objects to it—
there are two grounds, the first is:

on the ground that the sum demanded or any part thereof is not due to the assessee
then the second ground is:

or that he does not hold any money for or on account of the assessee, then
in both these cases:

nothing contained in this section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, to the Income-tax Officer."

My submission is that these two grounds are not the only possible defences for him to say that the money due cannot be paid. So I suggested the following amendment:

"or that he claims a legal or equitable set off from the assessee in respect of the sum demanded."

It may happen that a debtor has to pay money to the assessee and he has also to recover from the assessee any sum out of the same transaction or another transaction or he may have some other claim against him. In that case, he has an equitable right to get his money back or get something from the assessee. In that case also, he should be allowed to resist the claim of the Department to pay and he should be allowed that he does not pay any amount.

The Honourable Shri K. C. Neogy: All that I want to point out is that this particular paragraph was not in the original Bill, the paragraph to which my honourable friend wants to tag on the amendment that he has mentioned. This particular paragraph was inserted by the Select Committee after due consideration of the equities of the matter. I am not in a position to extend the scope of that paragraph any further.

Mr. Chairman: The question is:

"That clause 9, as amended, stand part of the Bill."

The motion was adopted.

Clause 9, as amended, was added to the Bill.

Clauses 10 to 15 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Shri K. C. Neogy: Sir, I move:

"That the Bill, as amended, be passed."

Mr. Chairman: Motion moved:

"That the Bill, as amended, be passed."

Shri B. Das (Orissa: General): Sir, I had no idea to speak on this Bill, But I saw certain views being expressed about the Income-tax Department that I would not have expressed. My view is that we have enjoyed one year of freedom in India and we have not settled down in our policies of taxation and in our treatment of the officials. Expressions were let out in this House that we have been accustomed to saying for the last ten years that we have treated the Income-tax Department as the Conector of Taxes for maintenance of foreign rule and any extortion we had to pay out. But on a previous occasion I have said—and I again repeat it—the tax dodging of assessees during the war through propensities of donations bribes that were introduced during those days of high finances when money passed from pocket to pocket—that tax-dodging the Government have not been able to check.

[At this stage, Mr. Chairman (Shri K. Santhanam) vacated the Chair, which was then occupied by Pandit Thakur Das Bhargava (one of the Panel of Chairmen)].

Even this Bill will not help my honourable friend, the Acting Finance Minister to control the tax dodgers. Some of them are in Pakistan and others are making arrangements to shift to Pakistan. If some honest assessees, as my honourable friend who spoke a few minutes ago, are harassed a little, we have to bear with it so that the real tax dodgers can be caught in the net. I do hope that we will not have cause for complaint against the Finance Ministry. We have got our strong condemnation of the Supply Department Officers, and the Disposal Officers. It is high time that in this new State that we are building, we maintain our Taxation Department, the Tax Collection Department in a high degree of integrity and propriety.

Any harassement that may happen has been much magnified by the lawyer profession that always appears before the Income-tax Officers, the Income-tax Commissioners and even before the Income-tax Tribunal which we have set up, where we have introduced an element of lawyers and High Court Judges and naturally the legal arguments outweigh the real essence of things that we are discussing. I appeal to my honourable friends the gentlemen of the legal profession whether they will not co-operate with the Government at this stage to maintain the Taxation Department to function as a pure body. Under the British regime, everybody became corrupt; everybody barring a very few, I would say excluding Mahatma Gandhi, became corrupt. Let us forget the past. I do hope that the Ministry of Finance will develop a high sense of duty and purity which all of us wish. I also hope that the harassment which you, Sir, referred to, against poor assessees, will never be exhibited and will never be talked of on the floor of this House. I also hope that the tax dodgers who have deprived the Government of crores of Rupees will be somehow caught unless they are in Pakistan and dead.

Babu Ramnarayan Singh: Sir, a little amount of heat was imported into the discussion just before we adjourned for lunch. When you, Sir, were speaking, I was rather provoked to say something. You were good enough and right enough to say that in the old days, people thought that it was with their money that they were controlled and suppressed and they did not like to pay anything to the Government and they evaded payment of taxes. At the same time, you said that the time has changed, this is our own Government and that people should think it to be a sin if they evade any payment. With all due respect to you, Sir, and all other people of your ways of thinking, the time has not changed, especially for those who are in the Government. It is said that corruption in every department of Government is rampant. This is a cry throughout the country that corruption is on the increase by leaps and bounds. My honourable friend Mr. Neogy, the Finance Minister was rather

a bit indignant that people indulge in gibes about the officers who are our own kith and kin. Well, Sir, we shall be proud of their achievements when they will be doing the right thing; but this is not the case now. Although they are our own kith and kin, they are the persons who behaved shabbily in the past and I do not think there is any certificate granted to them that they are doing the right thing now. I say that the time has not come when the people should think that it is a sin to evade payment of any tax to the Government. Everywhere we find the same old day, the same old game. Money is taken in the same arbitrary manner as before; money is not spent properly as before. In the morning there was a discussion about an interpolation over a question by my honourable friend Mr. Kamath about the salaries of the Governor General. The high salaries and everything were supported by our Prime Minister. (*An Honourable Member*: 'These are days of high prices'.) Even in these days of high prices, if you consider the condition of the people, even a salary of Rs. 500 fixed by the Congress, I think, is perfectly proper even now. The time is the same and I think such measures ought not to have been brought before the House. The Government and the Honourable the Finance Minister and everybody there should first try their utmost to see that the whole department of the Government, especially, the Income-tax Department, is purified. Then, they should come forward with such measures giving them more power. Sir, power is a very bad thing. Power should be given only to those people who are certainly in all conscience honest. When I hear the Treasury Benches supporting the corruptions in their departments and speaking highly of the people of their departments, I feel only sorry and surprised. Rather I pity that my friends, my colleagues have become drowned in the bureaucratic ocean. I understand they should sometimes pat their own people, the Government servants in their own department; but at the same time, they should not publicly announce that the people under them have become honest. We know what the people are and how they are behaving; no improvement has taken place. This is a matter of shame for all of us; this is not a matter to gloat over. With these words, Sir, I say that the attempt of the Honourable the Finance Minister ought to be to wholly purify his department so that not a finger can be raised against them, not a word can be said against them, no suspicion can be entertained against the conduct and character of the Income-tax Officers.

Shri Pabbu Dayal Himatsingka: Sir, the Bill has given wide powers to Income-tax Officers and I would now suggest to the Honourable the Finance Minister to instruct departments that circumstances have changed and that it should be applied not on old police methods but by explaining the duties and rights of the assessees.

Sir, as you know there are a large number of assessees who do not know the law. It should be the duty of the Income-tax Officer to point out to such assessees what they are entitled to by way of allowances, by way of deductions and depreciations and so on. If the method of explaining their rights and duties be followed, I have no doubt that with the changed circumstances there will be a change in the mentality of those who were trying to evade taxes. Up till now the Congress used to say, Don't pay taxes: and people who used to try to avoid taxes on income, would say that they were doing the same thing in their own way. But my feeling is that if the Income-tax authorities try to apply the provisions of the law with consideration and by explaining the position to the assessees, there is no doubt that a change is bound to come and a larger and larger number of assessees will be prepared to co-operate with the department, so that cases also can be disposed of quickly. At the present moment—not that there are many cases of over-assessment—the harassment and trouble to the assessees is due to the undue delay in disposing of the cases. You, Sir, having had practice in income-tax

[Shri Prabhu Dayal Himatsingka]

cases, and those who have had something to do with income-tax cases, know how the cases of assessees have been held up for years. When the law allows an Income-tax Officer to keep cases pending for four years and to reopen them on certain grounds for four years more and then keep them pending for another year or two years, you can imagine the difficulties to which the assessees are put to. That is the hardship that I have been referring to: that is the kind of harassment that I have been referring to and not to the question of the evasion of taxes.

Therefore, it is up to the Department to give instructions to the officers that they should try to explain the obligations and rights of assessees so that they can be prepared to co-operate more and more with the department. Sometimes the trouble begins, when an over-zealous officer, either an Assistant Income-tax Commissioner or some other officer, gives some instruction which the Income-tax Officers interpret in their own way as binding on them. I know of a recent case which I brought to the attention of the Honourable the Finance Minister, rather to his predecessor. In Bengal, in the cases of assessees decided since January 48, the whole amount of the high denominational notes, which had been demonetized by Ordinance and which were exchanged by assessees, is being debited against them as profit irrespective of the commencing explanations offered by these assessees. It is a terrible state of affairs and I speak from my own personal knowledge of certain cases. (*Shri Bikramlal Sondhi*: "Not a personal case!") Not a personal case though I had the money! There were some big amounts in the shape of Rs. 1,000 notes as a public fund and they were exchanged and that has been added as profits in spite of the fact that there have been good explanations. But it has all come about because one Income-tax Commissioner who happened to be there gave instructions that all those sums of money exchanged for high denominational notes should be charged as profits. This is being done in cases where there is no room for excess profits having been made. Even in the books of those assessees which have been accepted throughout as correct for a number of years, the full amount of such notes have been taken as profit. Therefore I suggest to the department that the law which gives them such wide and ample powers be applied sympathetically. By inducing the assessee to feel that the law is being applied properly and justly there may be a response on the side of the assessee.

With these words I congratulate the Minister who has been able to get such wide powers for his Department.

Dr. B. Pattabhi Sitaramayya (Madras: General): As the debate concludes, I am tempted to supplement what the speaker who has just now concluded has left unsaid. I want to supply a small an omission.

I am no apologist for the officers. At the same time it is necessary for us to send out an appeal to our countrymen that conditions have changed and that they...(*Babu Ramnarayan Singh*: "No!") have to attune themselves to the changed condition of freedom in this country: that they have become free citizens and rule themselves and that the mechanism of Government can only run like a clock if every citizen feels that he is a cog wheel, a cotter pin, or a pendulum, or a main spring, or a hair spring in this mechanism. The moment anyone tries to avoid taxes that very moment there is sabotage in the machinery of Government.

We have heard a good deal said about the method of combating inflation, and about almost every remedy—some of them textbook remedies, others—by interested parties and still others—by neutrals: but all confirm the theory that taxes must be paid and more taxes must be collected. If we accumulate money we must feel that we are doing something unsocial and uncivic. Just as

we develop a group sense in corporate society, just as we develop a road sense in traffic, so also we must develop a tax sense in this country as citizens. (*Mr. Nasiruddin Ahmad*: "The country is really developing non-sense!") If the officers must realize that they are the servants of the people, let us also realize as citizens that we have to render our taxes to the Government as we are bound to. If we only do this and cease to look upon taxes as an instrument of harassment, then possibly our Government will fare much better. It is true that since 1877 or thereabouts when income-tax was introduced for the first time as an emergent and temporary measure, this tax has come to be looked upon as a means of persecution and a source of harassment. It was piously hoped that it would have a short life, but it has lengthened itself from period to period and has raised the measure of its collection. We do not blame any one for this because after all income-tax is the only tax that people in towns and cities pay to Governments. Whereas the rural cultivator pays Rs. 10 to Government for every acre he cultivates, a lawyer or doctor, who manages to earn Rs. 2,000 but shows one rupee less in his returns, escapes scot-free. This distinction has been sedulously cultivated during the previous regime in favour of the people of the city as against the people of the villages. The rural population has been further afflicted by a system according to which the earnings of a lawyer, who sits in a town are not divisible among his brothers in the village but the earnings of the agricultural worker and trader who are working hard day and night, and who are exposing themselves to the vicissitudes of weather, and temperature, to pests and even to officials, and who also are subject to the risks of commerce, have to be divided with this lawyer brother or the doctor brother. Thus it looks as though the Government has deliberately cultivated the art of favouring the people of towns as against the people of the villages. The people of the villages are proportionately and individually paying a much heavier tax to Government than the people in towns, and it is only when we realise that we too must contribute to the revenues of the State that our state can become more efficient and more capable of doing good to the country. I want to supplement Mr. Himatsingka's argument to the effect that while the officers must cultivate a new outlook, the citizens too should cultivate a new vision.

The Honourable Shri K. C. Neogy: Sir, I would not like to say very many words, particularly because I want to end the debate on the note which has been struck by my honourable friend Dr. Pattabhi Sitaramayya. Income-tax is the most unpopular form of taxation all the world over. I remember to have read in a book by that well known income-tax expert Prof. Seligman that in his experience people who would never be considered capable of telling a lie would unhesitatingly put down their signature to a false income-tax return. Therefore tax-evasion is not peculiar to this country: it is an evil that prevails all over the world in larger or lesser degree. As my honourable friend has said we had better look forward to a regime of greater co-operation between the department and the assessees and in that connection I should like to endorse the suggestions made by my honourable friend Mr. Himatsingka that the departmental officers should be instructed to render as much assistance as possible to the assessees in the matter of understanding the intricacies of the income-tax law and in filling their returns properly. I dare say that such instructions have already gone out but if they have not I will make my special concern to see that such instructions are forthwith sent out to the departmental officers.

I should not like to take much time of the House, because I have a hope of getting my next Bill passed today but I would like very humbly to suggest that it is not good policy to indulge in constant nagging of your own officers. After all you have to depend upon the permanent officials for the administration of the country. There may be blacksheep among them. I do admit that

[Shri K. C. Neogy.]

there are blacksheep not only among the officers of the Income-tax Department but in other Departments as well. The real problem is how to improve matters. Everybody should not be tarred with the same brush: it simply will not do.

Mr. Chairman: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

TAXATION ON INCOME (INVESTIGATION COMMISSION) (SECOND AMENDMENT) BILL

The Honourable Shri K. C. Neogy (Minister for Finance and Commerce): Sir, I beg to move:

"That the Bill further to amend the Taxation on Income (Investigation Commission) Act, 1947, (*second amendment*) be taken into consideration."

Sir, I am sufficiently optimistic to hope that the next six minutes available to me would be sufficient for the purpose of getting this Bill through the House. The House will remember that in the original Act the time limit for making reference of cases to this Commission was 31st December, 1947. By an amending Act the date was extended to the 30th June, 1948. Later, that time was extended by a further period of two months under circumstances which are well known to this House and I do not desire to recall them. Now, this Bill is intended to replace that particular amendment. That is the short object of the Bill but there is a slight change and that is that instead of fixing the last date of August as the final date for this purpose, the first of September next has been fixed in the Bill.

Mr. Chairman: Motion moved:

"That the Bill further to amend the Taxation on Income (Investigation Commission)

Shri H. V. Kamath (C.P. and Berar: General): Sir, this Bill has had a very chequered history. Owing to a rather tragic concatenation of circumstances this Bill has resulted in a casualty in the cabinet ranks. We all know, the whole country knows today the exit of Mr. Shanmukham Chetty from the cabinet in the course of the progress of this Bill through Parliament. I do not wish to enter into those circumstances or those facts that led to his exit from the ranks of the Cabinet Ministers. The Statement of Objects and Reasons says that certain possible cases for reference were under consideration. I should like some more light to be thrown on this point which has acquired considerable importance owing to the events of the last fortnight. I want to know—and I think it is an issue which is perfectly relevant to the Bill under consideration—from the Honourable the Finance Minister whether the groups of cases that were withdrawn from the Investigation Commission have gone back to the Commission for consideration (*Several Honourable Members*: "They have already gone"). I would ask the Honourable the Finance Minister to make a statement on the floor of this House that those cases have been restored to the place whence they were withdrawn and that in future also cases will not be withdrawn from investigation by the Commission without their consent. This is very necessary in view of the events that took place a fortnight ago and I would request the Finance Minister to make a statement to this effect on the floor of the House.

The Honourable Shri K. C. Neogy: The answer to my honourable friend's query is in the affirmative.

Mr. Chairman: The question is:

"That the Bill further to amend the Taxation on Income (Investigation Commission) Act, 1947, (*second amendment*) be taken into consideration."

The motion was adopted.

Mr. Nazirudin Ahmad: (West Bengal: Muslim): Sir, I beg to move:

"That for clause 2 of the Bill, the following be substituted :

'2. *Amendment of section 5, Act XXX of* 1947.—In section 5 of the Taxation on Income (Investigation Commission) Act, 1947,—

(1) in sub-section (1)

(a) the words and figures 'before the 30th day of June, 1948', where they occur for the first time shall be omitted; and

(b) the words and figures 'at any time before the 30th day of June, 1948', where they occur for the second time, shall be omitted ;

(2) in sub-section (3), the words and figures 'at any time before the 30th day of June, 1948' shall be omitted'."

Sir, we have already seen that in the Tax Investigation Commission Act we set the time limit within which the Government was to act and it was anticipated that within that time it would be possible to send certain big cases to the Commission. Time was again extended by the previous amendment. It is now rather public knowledge that a large number of cases were sent to the Commission in a hurry on account of want of time without sufficient investigation. Now you want another time limit. The amendment seeks to take away that time limit. Take your own time, have eternal time if you like, to consider the matter and send the cases to the Commission and the House will have no objection I hope. If the cases are finished time will automatically lapse but there should be no time limit and there should be no hurry, because things were done in a hurry and they had to be reversed.

The Honourable Shri K. C. Neogy: Sir, I am afraid I did not have the time for considering my honourable friend's amendment but so far as the effect of this amendment is concerned it will make the work of the Commission almost impossible. Say, for instance, if we keep on adding to the number of cases which the Commission have to consider. The whole idea was to make a selection of the most important cases. As a matter of fact the number of cases already referred to the Commission is so large that it will take them years to dispose of them. Apart from the reference back of some of the cases that had been withdrawn, several fresh cases have also been referred to the Commission taking advantage of this extension of time. I am assured by the Department that there is no likelihood of any further cases being ready for such reference. But as regards the point that my honourable friend made that the department had no time adequately to examine these cases, I can assure him categorically that all the cases that are now before the Commission
5 P. M. had scrutinised carefully by the Department, *viz.*, the Central Board of Revenue.

The Honourable Shri K. C. Neogy: And in the course of the examination—this fact may not be known—a number of cases were not considered fit for reference. So it is not merely a kind of informal scrutiny but a regular scrutiny has taken place and it is as a result of the scrutiny that all these cases that are now before the Commission have been referred to them. Sir, I very much hope my honourable friend would not press his amendment.

Mr. Nazirudin Ahmad: I submit that my pressing amendments is needless as the Honourable Minister is not willing to accept them. I do not press them, but express the hope that the cases should be really considered once and for all and time should not be extended now and then. By long extensions nothing would be lost, but by short extensions, the Minister may have to come again.

Mr. Chairman: The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Shri K. C. Neogy: I move:

"That the Bill be passed."

Mr. Chairman: The question is:

"That the Bill be passed."

The motion was adopted.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Tuesday the 31st August 1946.